

MOSSEL BAY



MUNICIPALITY

**Office of the Municipal Manager:
Marsh Street 101
MOSSEL BAY
6500**

22 September 2025

TO: All members of the Eden Joint Municipal Planning Tribunal

AAN: Alle lede van die Eden Gemeenskaplike Munisipale Beplanningstribunaal

Presiding Officer/Voorsittende Beampte: I Huyser

Panel Members/Paneellede: F Vava

Alternative Members: D Carstens

MUNISIPALITEIT

**Kantoor van die Munisipale Bestuurder:
Marshstraat 101
MOSSELBAAI
6500**

22 September 2025

EDEN JOINT MUNICIPAL PLANNING TRIBUNAL MOSSEL BAY MUNICIPALITY EDEN GEMEENSAPLIKE BEPLANNINGSTRIBUNAAL MOSSELBAAI MUNISIPALITEIT

Notice is given that a meeting of the Eden Joint Municipal Planning Tribunal, Mossel Bay Municipality, will be held in the **Committee Room, 4th Floor, Montagu Place Building, 111 Montagu Street, Mossel Bay on 9 October 2025 at 10:00.**

Kennis geskied dat 'n vergadering van die Eden Gesamentlike Munisipale Beplanningstribunaal, Mosselbaai Munisipaliteit, gehou sal word in die **Komiteekamer, 4^{de} Vloer, Montagu Place Gebou, Montagustraat 111, Mosselbaai op 9 October 2025 om 10:00.**

**C VENTER
CHAIRMAN / VOORSITTER**

ITEM	AGENDA	
1.	CONFIRMATION OF MEETING <i>BEVESTIGING VAN VERGADERING</i>	
2.	STATEMENTS BY THE CHAIRPERSON <i>MEDEDELINGS DEUR DIE VOORSITTER</i>	
3.	ITEMS FOR DISCUSSION <i>ITEMS TE BESPREKING</i>	

3. ITEMS FOR DISCUSSION

ITEM	AGENDA	PAGES
PT33-10/2025	APPLICATION FOR REZONING, CONSENT USE AND PERMISSION IN TERMS OF THE MOSSEL BAY ZONING SCHEME BY-LAW, 2021 ON THE REMAINDER OF PORTION 23 (NAHOOGTE) (A PORTION OF PORTION 3) OF THE FARM WOLVEDANS 129 AND PORTION 1 OF FARM 320, DIVISION MOSSEL BAY (SOLAR PLANT)	1 – 125
PT34-10/2025	APPLICATION FOR CONSOLIDATION, APPROVAL OF A SITE DEVELOPMENT PLAN IN TERMS OF THE ZONING SCHEME ON ERVEN 3675 AND 3691, MOSSEL BAY, IN TERMS OF THE MOSSEL BAY BY-LAW ON MUNICIPAL LAND USE PLANNING, 2021	126 - 259
PT35-10/2025	APPLICATION FOR REZONING, SUBDIVISION AND CONSOLIDATION IN TERMS OF SECTION 15 OF THE MOSSEL BAY BY-LAW ON MUNICIPAL LAND USE PLANNING, 2021: ERVEN 332 & 24, HERBERTSDALE	260 - 374
PT36-10/2025	APPLICATION FOR REZONING, CONSOLIDATION, PERMANENT: DEPARTURES & REMOVAL OF RESTRICTIVE TITLE DEED CONITIONS IN TERMS OF SECTION 15 OF THE MOSSEL BAY BY-LAW ON MUNICIPAL LAND USE PLANNING, 2021: IN ORDER TO ESTABLISH A CAR DEALERSHIP ON ERVEN 5116, 5117 & 5118, MOSSEL BAY	375 - 495
PT37-10/2025	APPLICATION FOR SUBDIVISION, CLOSURE OF A PUBLIC PLACE, PERMANENT DEPARTURE AND EXEMPTION: ERVEN 6763, 16463 AND 16464, DANA BAY, MOSSEL BAY	496 - 585



LAND USE PLANNING REPORT
PT33-10/2025

**APPLICATION FOR REZONING, CONSENT USE AND PERMISSION IN TERMS OF THE
MOSSSEL BAY ZONING SCHEME BY-LAW, 2021 ON THE REMAINDER OF PORTION 23
(NAHOOGTE) (A PORTION OF PORTION 3) OF THE FARM WOLVEDANS 129 AND PORTION 1
OF FARM 320, DIVISION MOSSSEL BAY (SOLAR PLANT)**

Reference number	15/4/34/5; 15/4/34/6, 15/4/34/4 C 15482693 App 59-05/2025	Application submission date	8/05/2025	Date report finalised	18/08/2025
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PART A: AUTHOR DETAILS

First name(s)	Ruan
Surname	Le Roux
Job Title	Town Planner (Land Use Management)
SACPLAN registration number	A/2669/2018
Directorate/Department	Planning and Economic Development
Contact details	044 606 5077

PART B: APPLICANT DETAILS

First name(s)	Martin			
Surname	Jonker			
Company Name	Plan 4 SA (Pty) Ltd			
SACPLAN registration number	A/1090/1999	Is the Applicant authorised to submit this application	Y	N
Registered owner(s)	Mossel Bay Municipality			

PART C: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Portion 23 (Nahogte) (A Portion of Portion 3) of the Farm Wolvedans 129, Mossel Bay Division & Portion 1 of the Farm 320, Mossel Bay Division				
Physical address	The properties are located north of the N2 and west of Sorgfontein Road. Portion 1 of Farm 320 is wedged between the N2 on its southern boundary and Sandhoogte Road (Divisional Road No 83) on its northern boundary, whilst Sandhoogte Road runs in an east-west direction through Portion 23 of Farm 129 (see Annexure A).	Town/City	Great Brak River, Mossel Bay		
Current zoning	Agriculture Zone I	Extent (m ² /ha)	Portion 23 of the Farm 129:	Are there existing buildings on the property?	Y N

			20.7633ha			
			Portion 1 of the Farm 320: 4.6336ha			
Applicable zoning scheme	Mossel Bay Municipality: Zoning Scheme By-Law, 2021					
Current land use	Waste Water Treatment Works (WWTW) Portion 23 of Farm 129: The portion of this property located north of Divisional Road No 83 (Sandhoogte Road) is vacant land. The portion of this property located south of the aforementioned road contains the buildings and structures related to the WWTW. Portion 1 of Farm 320: Contains the ponds related to the WWTW.		Title Deeds number & date	Portion 23 of the Farm 129: T56806/1994 Portion 1 of the Farm 320: T18301/1996		
Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)			
Any third party conditions applicable?	Y	N	If Yes, specify			
Any unauthorised land use/building work	Y	N	If Yes, specify			
PART D: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)						
Has pre-application consultation been undertaken?	Y	N	If yes, provide a brief summary of the outcomes below.			
PART E: LIST OF APPLICATIONS (TICK APPLICABLE)						
Rezoning	√	Permanent departure		Temporary departure		Subdivision
Extension of the validity period of an approval		Approval of an overlay zone		Consolidation		Removal, suspension or amendment of restrictive conditions
Permissions in terms of the zoning scheme	√	Amendment of an approval or amendment, deletion or imposition of conditions in respect of existing approval		Amendment or cancellation of an approved subdivision plan		Permission in terms of a condition of approval
Determination of zoning		Closure of public place		Consent use	√	Occasional use
Disestablish a homeowner's association		Rectify failure by homeowner's association to meet its obligations		Permission for the reconstruction of an existing building that constitutes a non-conforming use		

PART F: APPLICATION DESCRIPTION

The application consists of the following:

- Rezoning of Portion 1 of Farm 320, Mossel Bay Division in terms of Section 15(2)(a) of the Mossel Bay Municipality: By-Law on Municipal Land Use Planning, 2021 from “Agricultural Zone I” to “Utility Zone” to accommodate the existing authorised (via previous consent) Wastewater Treatment Works as a Primary Right.
- Rezoning of Portion 23 (Nahooqte) (a portion of Portion 3) of the Farm Wolvedans 129, Mossel Bay Division in terms of Section 15(2)(a) of the Mossel Bay Municipality: By-Law on Municipal Land Use Planning, 2021 from “Agricultural Zone I” to “Utility Zone” to accommodate the existing authorised (via previous consent) Wastewater Treatment Works as a Primary Right.
- Consent on Portion 23 (Nahooqte) (a portion of Portion 3) of the Farm Wolvedans 129, Mossel Bay Division in terms of Section 15(2)(m) of the Mossel Bay Municipality: By-Law on Municipal Land Use Planning, 2021 to use a portion (±4.15ha) for Renewable Energy Structure (Solar Plant with Ancillary Infrastructure) purposes as shown on Plan 2: Concept Site Development Plan.
- Permission in terms of the Mossel Bay Municipality: Zoning Scheme By-Law, 2021 in terms of Section 15(2)(g) of the Mossel Bay Municipality: By-Law on Municipal Land Use Planning, 2021 of the approval of the Site Development Plan (PLAN 2: CONCEPT SITE DEVELOPMENT PLAN) showing the proposed Renewable Energy Structures (Solar Plant with Ancillary Infrastructure) on Portion 23 (Nahooqte) (A Portion of Portion 3) of the Farm Wolvedans 129, Mossel Bay Division.

PART G: BACKGROUND

According to the Applicant, the Mossel Bay Municipality approved a project to establish a Solar Plant and Battery Bank on Portion 23 (Nahooqte) (a portion of Portion 3) of the Farm Wolvedans 129, Mossel Bay Division and Portion 1 of Farm 320, Mossel Bay Division with the primary aim to ensure a more sufficient and sustainable energy source for the Great Brak River Sewerage Plant. Subsequently, the Mossel Bay Municipality appointed Plan 4 SA (Pty) Ltd to undergo the relevant Land Use Process to obtain the required Land Use Rights on these two properties.

PART H: SUMMARY OF APPLICANTS MOTIVATION

Development Proposal:

The Applicant motivates that the intention the application is to obtain land use authorisation to use approximately 4.15ha of the farm; namely Portion 23 (Nahooqte) (a portion of Portion 3) of the Farm Wolvedans 129, Mossel Bay Division and Portion 1 of Farm 320, Mossel Bay Division as a Solar Plant with Ancillary Infrastructure.

Character of the area:

The Applicant states that according to the Mossel Bay Municipal Spatial Development Framework, 2022 (MSDF) the area has been earmarked as a future mixed-use (business and light industrial) area. The proposed solar panels and infrastructure would fit into such an area. The area to the west, north and portions to the east of this property are agricultural areas which are not affected by this proposed land use. Whereas, the N2 forms a physical boundary between the subject properties and the residential areas south of the N2.

Environmental Characteristics:

According to the Applicant, Messrs Sharples Environmental Services (SESCC) was appointed to do all the required specialist studies to obtain environmental and heritage authorisation for the project of which the extract below shows a summary of the specialist studies that were conducted and the sensitivity outcome of each study.

10. SUMMARY OF SPECIALIST STUDIES

Required themes in terms of the Exclusion Norms (GN 4558 of 2024) from the Requirement to obtain an Environmental Authorisation and additional studies that have been examined in terms of the screening tool:

Required themes:			
	Theme	Assessment Report	Specialist sensitivity outcome
1.	Agriculture Theme	YES	Low
2.	Aquatic Biodiversity Theme	YES	Low
3.	Terrestrial Biodiversity Theme	YES	Low
4.	Animal Species Theme	YES	Low
5.	Plant Species Theme	YES	Medium/Low
Additional themes			
6.	Archaeological and Cultural Heritage Theme	Yes	Low
7.	Civil Aviation (Solar PV) Theme	NO	N/A
8.	Defense Theme	NO	N/A
9.	Landscape/ Visual Impact Assessment	YES	Medium/Low
10.	Paleontology Theme	YES	Low
11.	Avian Theme	YES	Low
12.	RFI Theme	NO	N/A

Extract 1: Summary of Environmental & Heritage Studies

The Site Sensitivity Verification Report from Messrs SESCC concluded that amongst others, the following: *“Ultimately, the proposed project represents a significant opportunity to positively impact the Mossel Bay community, advancing sustainable development and ensuring uninterrupted service delivery. By embracing renewable energy and environmental stewardship, it aims to enhance the well-being of residents and foster long-term community resilience”.*

Impact on Surrounding property owners:

The Applicant states that the proposed Solar Farm should not have a negative impact on surrounding property values if the mitigation measures proposed in the various environmental reports are implemented. The MSDF has also earmarked this area as a future mixed-use (business and light industrial) area.

Whereas, the Visual Impact Assessment that was done by Megan Anderson Landscape Architect for Sharples Environmental Services (SESCC) dated 11 May 2024, stated that the *“...Great Brak River WWTW PV Solar Plant will result in a medium visual impact, being visible from residential areas and tourist roads”.* It recommended the following mitigation measures to reduce the visual impact of the project:

- *“Create an earth/sand berm (long earth mound) on the southern and western borders of the site, approximately 1 - 1,5m high, within the fenced area of the site and plant this with indigenous trees typical of the surrounding area, that will get to a height of 3 - 5 meters. The selection of the plant species should be made in consultation with the botanist.*
- *Create more space between the Grootbrak and Kleinbrak solar PV panels such that an earth berm planted with trees can be established here, thereby providing screening of the upper panels from the south.*
- *Areas cleared under the panels should be revegetated with lawn so that the stark earth colour from site clearing is softened by green shades*
- *Structures and fencing on the site should be painted recessive colours such as charcoal grey and the building materials should also be non - reflective and dark grey colours”.*

The Report concluded that *“Mitigation measures will reduce the potential impacts and if these mitigation measures are implemented, the significance of the visual impacts will be medium – low”.*

Mossel Bay Spatial Development Framework (MSDF) & IDP:

The MSDF indicates that the relevant portions on which the solar infrastructure is proposed are ESA1 (Terrestrial Support Areas), whilst the 2023, EMF identifies this portion of the subject property as an area earmarked for Agriculture.

However, the SDF has designated the part of Portion 23 (Nahoogte) (A Portion of Portion 3) of the Farm Wolvedans 129, Mossel Bay Division north of Sandhoogte Road and the property to the east of this portion as a future urban expansion area which is earmarked for mixed-use (business and light industrial) development. The subject properties are furthermore within the urban edge of Mossel Bay Municipality.

The Applicant made the following remarks: Although the SDF does not "... specifically provides for the utilisation or development of land as proposed in a land use application ..." the proposed land use in this application is "... not in conflict with the purpose of the relevant designation in the spatial development framework ..." and therefore the proposed land use is "... regarded as being consistent with that spatial development framework ..." in accordance with Section 19(2) of LUPA.

Engineering Services:

The Applicant motivates that the Engineering Services Report dated March 2024 from Element Consulting Engineers provides a more detailed description of the proposed Solar Plant and its Ancillary Infrastructure. An extract of this explanation is as follow:

Solar Plant: A typical arrangement of the PV Solar panels and associated mounting frames for both the Great Brak River and Klein Brak River WWTW's are considered based on the slope and orientation of the available land.

The Report states the following: "...total area of approximately 1.34 ha will be required for the installation of the 2028 x 565Wp Solar Panels on Fixed Tilt Ground Mounted System" for the Groot-Brak WWTW, whilst "... a total area of approximately 1.26 ha will be required for the installation of the 2028 x 565Wp Solar Panels on Fixed Tilt Ground Mounted System" for the Klein-Brak WWTW. Another ±1.55ha of suitable area is set aside for the future expansion of the aforementioned Solar Panels.

Ancillary Infrastructure: "The solar energy generated will be reticulated to the Kleinbrak WTW plant via a proposed new 11 Kv cable" which will "... cross the N2 highway, along the existing 11kV cables between the Midbrak and Tergniet substations. From the Tergniet substation, it will be installed along the R102 road, all the way to the Kleinbrak WTW, where it will terminate at the new 11kV substation".

Access & Traffic:

No impact on the surrounding road network. Only municipal officials will use the property.

Applicant's Motivation attached as Annexure C.

PART I: ADVERTISEMENT

Methods of advertising				Date published	Closing date for comments
Press	Y	N	N/A	30 May 2025	30 June 2025
Gazette	Y	N	N/A		
Notices	Y	N	N/A	30 May 2025	30 June 2025
Ward Councillor	Y	N	N/A	30 May 2025	30 June 2025
Site notice	Y	N	N/A	30 May 2025	30 June 2025
Community organisation(s)	Y	N	N/A	30 May 2025	30 June 2025
Section 79	Y	N	N/A	30 May 2025	30 June 2025
Public meeting	Y	N	N/A	Date held: 5 June 2025, 18:00	
Third parties	Y	N	N/A		
Other	Y	N	If yes, specify		

Total valid comments	1			Total comments and petitions refused	
Valid petition(s)	Y	N	If yes, number of signatures		
Community organisation(s) response	Y	N	N/A	Ward councillor response	Y N N/A
Total letters of support	0				
Was public participation undertaken in accordance with Section 45- 49 of the Mossel Bay By-law on Municipal Land Use Planning				Y	N
PART J: SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION					
The Land Use Planning Committee provided the following comment: "Committee of Council, reserves its right to lodge an Appeal against the decision made on this application based on the outcome of the Public Participation Process and comments received thereon." Comments from Section 79 Land Use Planning Committee attached as Annexure K.					
PART K: SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS					
Name	Date received	Summary of comments		Recommendation	
Mossel Bay Municipality: Community Services Department	8 May 2025	No objections.		Positive	Negative Comment
Mossel Bay Municipality: Traffic & Law Enforcement Department	8 May 2025	No objection.		Positive	Negative Comment
Mossel Bay Municipality: Electro-technical Department	9 May 2025	No objection.		Positive	Negative Comment
Mossel Bay Municipality: Fire, Rescue and Disaster Management Services	9 May 2025	Comply with SANS 10400 T (Fire Safety) W (water connection) and access for emergency vehicles.		Positive	Negative Comment
Mossel Bay Municipality: Building Control	12 May 2025	<p>Herewith are comments offered on behalf of the Building Control Department:</p> <ol style="list-style-type: none"> The submission of the Building Plan Application must be compliant with SANS 10400 and National Building Regulations. A competent person shall be appointed for the rational design of Fire Installation, Protection, and Equipment in terms of SANS 10400: T. Approval for the Solar Farm shall lapse if the operation of the facility is found to cause adverse impacts on human health or the environment, as determined by the competent authority. That access to the Solar Farm and ancillary infrastructure must be strictly controlled with a locked gate and adequate warning signs in 3 of the official languages most spoken in the area on the gate. The Applicant shall be responsible for ensuring the 		Positive	Negative Comment

		<p>safety of the public regarding the facilities at all times.</p> <p>6. All solar panels installed must be anti-reflective. In addition, panel orientation, layout, and visual screening (e.g. vegetative buffers, fencing, or landscaping) must be considered to mitigate glare and potential nuisance to surrounding properties, roadways, and air traffic. A detailed glare and visual impact assessment shall be undertaken, and the identified measures shall be incorporated into the final design and construction.</p>			
Mossel Bay Municipality: Spatial Planning	12 May 2025	No comment.	Positive	Negative	Comment
Mossel Bay Municipality: Traffic & By-Law Enforcement	14 May 2025	No objection.	Positive	Negative	Comment
Mossel Bay Municipality: Roads & Stormwater	29 May 2025	Any upgrading or extension of the municipal water or sewer infrastructure will be for the Applicant's account.	Positive	Negative	Comment
Mossel Bay Municipality: Water & Sanitation	30 May 2025	The location of existing water and sewer infrastructure on the property must be considered when location of the solar panels is planned.	Positive	Negative	Comment
Breede-Olifants Catchment Management Agency (BOCMA)	10 June 2025	<p><u>First comments dated 12 June 2025:</u></p> <p>The BOCMA does not object to the proposed rezoning of the scheme (solar plant), however would like to provide the following comments on the submitted documentation which can be view on attached Annexure F.</p>	Positive	Negative	Comment
Western Cape Department of Infrastructure	8 August 2025	The Branch offers no objection to this application, subject to conditions, which can be viewed on attached Annexure G.	Positive	Negative	Comment
Western Cape Department of Agriculture: Land Reform and Rural Development	21 August 2025	The WCDoA has no objection as it has insignificant impact on agriculture, which can be viewed on attached Annexure H.	Positive	Negative	Comment
Western Cape Department of Environmental Affairs and Development Planning: Development Management	14 July 2025	<p>The Department stated that no Environmental Authorisation is required as stated below:</p> <p><i>“The considering the National Environmental Management Act, 1998 (Act No. 107 of 1998) (“NEMA”) and the schedule to the Adoption of Solar Exclusion Norm and Exclusion of Solar PV facilities from the requirement to obtain an Environmental Authorisation (Government Notice No. 4558 of 27</i></p>	Positive	Negative	Comment

		<p>March 2024) (“Solar Exclusion Norm”), the Competent Authority has determined that the Registration Request, as prepared by Ms. Betsy Ditcham (EAPASA No.: 2020/1480) of Sharples Environmental Services cc, conforms to the requirements of the Norm.</p> <p>The request to register the proposed development in terms of the exclusion norm contemplated in Government Notice No. 4558 of 27 March 2024 is hereby confirmed</p> <p>The complete letter can be viewed on attached Annexure D.</p>			
Western Cape Region Department of Forestry, Fisheries and the Environment.	18 August 2025	<p>Forestry has no objection to above development proposal, provided that:</p> <ol style="list-style-type: none"> The development footprint remains within the alien invasive wattle/ disturbed areas. The protected trees on the property to remain intact and should be indicated on no-go areas. <p>The complete letter can be viewed on attached Annexure E.</p>	Positive	Negative	Comment

PART L: REPLY TO COMMENTS

None.

PART M: MUNICIPAL ASSESSMENT OF COMMENTS

The comments from the External and Internal Department will form part of the conditions of approval, were applicable.

PART N: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

Was the application processed correctly (if no, elaborate below):	Y	N
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)	Y	N

Application history

See **PART G: BACKGROUND.**

(In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application can be considered to be consistent with the provisions of SPLUMA, for the following reasons:

The principle of Spatial Justice: This principle aims to redress past spatial and other spatial imbalances through improved access to and use of land. Spatial Development Frameworks and policies at all spheres of government must address the inclusion of persons and areas that were previously excluded, with an emphasis on informal settlement, former homeland areas and areas characterised by a widespread of poverty and deprivation. The proposed Solar Plant with Ancillary Infrastructure will ensure the sustainable provision of sewerage service, which will assist the access of previously disadvantaged comments to Municipal Infrastructure services of which sewerage is one.

The principle Spatial Sustainability: This proposal is in line with this principle, since it does not affect existing prime and unique agricultural land. Furthermore, the properties are located within the urban edge and earmarked in the MSDF

for mixed-use development. The proposed Solar Farm will also save the Municipality costs in the future and promotes efficient use of alternative energy for its WWTWs.

The principle of Efficiency: The proposal is consistent with this principle as it will optimises the use, cost effectiveness and efficiency of the existing and proposed infrastructure. The land use development application procedures followed were also efficient and all timeframes were adhered to by all parties.

The principle of Spatial Resilience: This principle deals with flexibility in spatial planning as well as in land use management systems of which the proposal is in line with the IDP and MSDF, since it will ensure the safeguard of important municipal Infrastructure that services the communities of Mossel Bay by providing sustainable power supply.

Principle of Good Administration: A transparent Public Participation Process was carried out where adjoining neighbours and affected parties were provided an opportunity to provide comments. This allows for the land use application to be processed and finalised as all necessary information is available to make an informed decision.

(In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

According to the Applicant this proposed development aims to ensure the necessary safeguard and proper functionality of Municipal Infrastructure; namely sewerage infrastructure by providing sustainable power provisions to the required infrastructure.

(In)consistency with the IDP/Various levels of SDF's/Applicable policies

The proposal is in line with the Strategic Development Objectives identified in the IDP and SDF through contributing to sustainable provisions of Municipal Services.

(In)consistency with guidelines prepared by the Provincial Minister

The strategic objective of the Provincial Government is to acquire well located land while prioritising access to basic services. The proposal is therefore in line with this strategic objective since it will assist to improve service delivery in a sustainable manner that will benefit the community.

Impact on Municipal engineering services

A proposal will not have a negative impact on the Municipal Services; it will rather ensure the safeguard of the existing sewerage infrastructure by provided a sustainable power supply to the WWTWs through the Solar Plant and Ancillary Infrastructure.

Outcomes of investigations/applications i.t.o other legislation

The Environmental Authorisation was not required as the proposed Solar Plant and Ancillary Infrastructure is exempted from an EIA, as stated within the letter dated 4 July 2025 as attached on Annexure D.

Existing and proposed zoning comparisons and considerations

Existing zoning:	Proposed zoning:
<p><u>Existing Zoning:</u> Both properties (Portion 1 of Farm 320 and Portion 23 of Farm 129) are zoned Agricultural Zone I with land use rights as per consent for Utility Service (for WWTW).</p>	<p><u>Proposed Zoning:</u> Portion 1 of Farm 320 proposed zoning: Utility Zone (UZ). Portion 23 of Farm 129 proposed zoning: Utility Zone (UZ) with consent for Renewable Energy Structures (Solar Plant with Ancillary Infrastructure).</p>

The zoning of the property will change in line with what the properties are currently used for, namely utility services. Subsequently, the proposed zonings and included consent use to accommodate the Renewable Energy Structures (Solar Plant) in order to provide a fundamental service and ensuring stainable municipal services.

The desirability of the proposal

Desirability can be defined as the degree of acceptability of a proposed development on a land unit concerned. The desirability of the proposed land use application is determined in conjunction with the development principles and criteria set out through the Statutory Planning Framework listed above, as well as the degree to which this proposal may be considered within the context of broader public interest.

Character of the area: The character of the area has already been established as a future mixed-use (business and light industrial) area. The proposed solar panels and infrastructure would fit into such an area. The area to the west, north and portions to the east of this property are agricultural areas which are not affected by this proposed land use. The N2 forms

a physical boundary between the subject properties and the residential areas south of the N2. Mitigating measures added as conditions of approval, if approved, will also assist to lessen the potential visual impact of the proposal.

Planning legislations: The proposal is in line with the IDP and MSDF, since it will ensure the safeguard of important Municipal Infrastructure that services the communities of Mossel Bay by providing a sustainable power supply.

Desirability: The proposal is regarded as desirable, since it will protect the proper functionality of the Municipal Infrastructure which gives basic services to the communities of Mossel Bay. Subsequently, complying to the norms and goals of SPLUMA and a functional Municipality.

PART O: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights

N/A

The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal

N/A

The social benefit of the restrictive condition remaining in place, and/or being removed/amended

N/A

Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights

N/A

PART P: SUMMARY OF EVALUATION

The proposed Solar Farm will save the Municipality costs in the future and promotes efficient use of alternative energy for its WWTWs, in order to ensure that the fundamental goals of the Municipality are met by provided stainable Municipal Infrastructure that is not depended on external resources. The development proposal is also in line with the MSDF , IDP and SPLUMA that ensures that communities are provided with basic services on a stable/consistent manner. Furthermore, no negative comments were obtained from the Internal or External Departments as well as the broad public of Mossel Bay.

PART Q: DEPARTMENTAL COMMENTS

COMMENTS: MUNICIPAL MANAGER

No further comments.

COMMENTS: DIRECTOR FINANCIAL SERVICES

No further comments.

COMMENTS: DIRECTOR DEVELOPMENT AND PLANNING

No further comments.

COMMENTS: DIRECTOR TECHNICAL SERVICES

No further comments.

COMMENTS: DIRECTOR COMMUNITY SERVICES

No further comments.

COMMENTS: DIRECTOR COMMUNITY SAFETY

No further comments.

COMMENTS: DIRECTOR CORPORATE SERVICES

No further comments.

COMMENTS: LEGAL SERVICES

No further comments.

PART R: RECOMMENDATION

That the following recommendation be made to the Eden Joint Municipal Planning Tribunal:

1. That the application for the Rezoning of Portion 1 of Farm 320, Mossel Bay Division in terms of Section 15(2)(a) of the Mossel Bay Municipality: By-Law on Municipal Land Use Planning, 2021 from "Agricultural Zone I" to "Utility Zone" to accommodate the existing Wastewater Treatment Works as a Primary Right, **be approved**, in terms of Section 61 of the said By-Law.
2. That the application for the Rezoning of Portion 23 (Nahoogte) (a portion of Portion 3) of the Farm Wolvedans 129, Mossel Bay Division in terms of Section 15(2)(a) of the Mossel Bay Municipality: By-Law on Municipal Land Use Planning, 2021 from "Agricultural Zone I" to "Utility Zone" to accommodate the existing Wastewater Treatment Works as a primary right, **be approved**, in terms of Section 61 of the said By-Law.
3. That the application for the Consent on Portion 23 (Nahoogte) (a portion of Portion 3) of the Farm Wolvedans 129, Mossel Bay Division in terms of Section 15(2)(m) of the Mossel Bay Municipality: By-Law on Municipal Land Use Planning, 2021 to use a portion (± 4.15 ha) for Renewable Energy Structure (Solar Plant with Ancillary Infrastructure) purposes as shown on Plan 2: Concept Site Development Plan, **be approved**, in terms of Section 61 of the said By-Law.
4. That the application for permission in terms of the Mossel Bay Municipality: Zoning Scheme By-Law, 2021 in terms of Section 15(2)(g) of the Mossel Bay Municipality: By-Law on Municipal Land Use Planning, 2021 of the approval of the Site Development Plan (Plan 2: Concept Site Development Plan) showing the proposed Renewable Energy Structures (Solar Plant with Ancillary Infrastructure) on Portion 23 (Nahoogte) (a portion of Portion 3) of the Farm Wolvedans 129, Mossel Bay Division, **be approved**, in terms of Section 60 of the said By-Law.
5. That the approval above is subject to the following conditions imposed in terms of Section 67 of the said legislation:

Services:

- 5.1 That, if any upgrading or extension of the municipal water or sewer infrastructure, will be for the Applicant's account to the satisfaction of the Director: Infrastructure Services.
- 5.2 That the location of existing water and sewer infrastructure on the property must be considered when location of the solar panels is planned to the satisfaction of the Director: Infrastructure Services.

Kindly note:

- That cognisance be taken of the conditions from the Western Cape Region Department of Forestry, Fisheries and the Environment dated 18 August 2025.
- That cognisance be taken of the conditions from the Western Cape Department of Environmental Affairs and Development Planning: Development Management dated 14 July 2025.
- That cognisance be taken of the conditions from the Western Cape Department of Infrastructure dated 8 August 2025.
- That cognisance be taken of the conditions from the Breede-Olifants Catchment Management Agency (BOCMA) dated 10 June 2025.
- That this approval does not exempt the Applicant to comply with any applicable laws and/or procedures applicable to the proposed use.

- That the Applicant/Owner must comply to the National Buildings Regulations at all times.

PART S: REASONS FOR RECOMMENDATION

1. The proposal complies with the core goals and strategies of the MSDF, IDF and SPLUMA, since it will ensure the safeguard and proper functionality of the Mossel Bay Municipality Infrastructure which provides an important basic service to the communities of Mossel Bay.
2. The proposal will ensure that the Municipality is not depended on external resources to provide their basic services to the communities of Mossel Bay and service delivery is enhanced by means of introducing a sustainable means of energy supply.
3. No objections or negative comments were obtained from the public, Internal or External Departments during the Public Participation Process.

PART T: ANNEXURES

- Annexure A Locality Plan
- Annexure B Site Development Plan
- Annexure C Applicant's motivation
- Annexure D Department of Environmental Affairs & Development Planning: Development Management dated 14 July 2025.
- Annexure E Western Cape Region Department of Forestry, Fisheries and the Environment dated 18 August 2025.
- Annexure F Breede-Olifants Catchment Management Agency (BOCMA) dated 10 June 2025.
- Annexure G Western Cape Department of Infrastructure dated 8 August 2025.
- Annexure H Western Cape Department of Agriculture: Land Reform and Rural Development dated 21 August 2025.
- Annexure I Title Deeds
- Annexure J Conveyancer's Certificate
- Annexure K Comments from Section 79 Land Use Planning Committee

PART U: SIGNATURES

Author

Registered planner name: Ruan le Roux



SACPLAN registration number: A/2669/2018

Date: 4 September 2025

Manager (Town Planning)

Registered planner name: Jacobus Izak Roux



SACPLAN registration number: A/05/2007

Date: 4 September 2025

Director: Planning and Integrated Services

Carl Venter



SACPLAN Registration Number: A/1152/1999

Date: 5 September 2025

Decision maker: Eden Joint Municipal Planning Tribunal

APPROVED

APPROVED
CONDITIONALLY

APPROVED IN PART

REFUSED

Date: _____



MOSSSEL BAY MUNICIPALITY

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**LAND USE PLANNING REPORT
PT34-10/2025**

APPLICATION FOR CONSOLIDATION, APPROVAL OF A SITE DEVELOPMENT PLAN IN TERMS OF THE ZONING SCHEME ON ERVEN 3675 AND 3691, MOSSSEL BAY, IN TERMS OF THE MOSSSEL BAY BY-LAW ON MUNICIPAL LAND USE PLANNING, 2021

Reference number	15/4/40/2;15/4/40/4 C 15484485 App 18-01/2025	Application submission date	23/01/2025	Date report finalised	12/07/2025
PART A: AUTHOR DETAILS					
First name(s)	Raimo				
Surname	Fernandez				
Job Title	Town Planner				
SACPLAN registration number	A/2864/2019				
Directorate/Department	Planning and Economic Development				
Contact details	044 606 5012				
PART B: APPLICANT DETAILS					
First name(s)	Marike				
Surname	Vreken				
Company Name	Marike Vreken Urban & Environmental Planners				
SACPLAN registration number	A/1101/1999	Is the Applicant authorised to submit this application	Y	N	
Registered owner(s)	Centra Nova Pty (Ltd)				
PART C: PROPERTY DETAILS					
Property description (in accordance with Title Deed)	Erven 3675 and 3691, Mossel Bay				
Physical address	5 Da Gama Street (Erf 3691) and 7 Robbie Scholtz Street (Erf 3675), Da Nova, Mossel Bay	Town/City	Mossel Bay		
Current zoning	Erf 3691 - Business Zone IV Erf 3675 - Single Residential Zone	Extent (m2 /ha)	Erf 3691 - 668m ² Erf 3675 - 613m ²	Are there existing buildings on the property?	Y N
Applicable zoning scheme	Mossel Bay Zoning Scheme By-Law, 2021				
Current land use	Erf 3691 - Medical consulting room Erf 3675 - Single residential dwelling	Title Deed number & date	Erf 3691 - T53795/2018 Erf 3675 - T25685/2019		
Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)	The Title Deed (T25685/2019) for Erf 3675, Mossel Bay. Conditions C(4)(b), C(4)(c), C(4)(d).	
Any third party conditions applicable?	Y	N	If Yes, specify	N/A	

Any unauthorised land use/building work	Y	N	If Yes, specify	N/A
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PART D: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

Has pre-application consultation been undertaken?	Y	N	If yes, provide a brief summary of the outcomes below.
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- A submission of an SDP is required to implement the additional use rights as per the Da Nova Medical Precinct Overlay Zone.
- Parking & access will be evaluated as per SDP. Direct parking from the street onto the site is permitted in terms of the Overlay Zone. Parking may encroach onto the road reserve, however, a 1,5m sidewalk must still be available for pedestrians. The sidewalk must be a practical design to flow effortlessly from the subject property to the existing sidewalk along adjacent properties without any obstacles (subject to approval from Roads and Stormwater).
- Refer to the Da Nova Medical Precinct Overlay Zone in the Zoning Scheme By-Law, 2021 (pg. 111) for the applicable Development Parameters.
- Existing service lines, such as the sewer line located between Erven 3675 & 3691, Mossel Bay must be addressed. Contact person: Eric Louw, Senior Manager (Water and Sanitation) Tel: +27 44 606-5270, Email: elouw@mosselbay.gov.za
- Services Level Agreement will be required and therefore all engineering services must be addressed and relevant services reports, required traffic study/statement must accompany the Site Development Plan.

PART E: LIST OF APPLICATIONS (TICK APPLICABLE)

Rezoning		Permanent departure		Temporary departure		Subdivision	
Extension of the validity period of an approval		Approval of an overlay zone		Consolidation	X	Removal, suspension or amendment of restrictive conditions	
Permissions in terms of the zoning scheme	X	Amendment, deletion or imposition of conditions in respect of existing approval		Amendment or cancellation of an approved subdivision plan		Permission in terms of a condition of approval	
Determination of zoning		Closure of public place		Consent use		Occasional use	
Disestablish a homeowner's association		Rectify failure by homeowner's association to meet its obligations		Permission for the reconstruction of an existing building that constitutes a non-conforming use			

PART F: APPLICATION DESCRIPTION

1. An application for Consolidation of Erven 3675 (613m²) and 3691 (668m²), Mossel Bay in terms of Section 15(2)(e) of the Mossel Bay Municipality's Land Use Planning By-Law, 2021.
2. Application for Permission in terms of the Zoning Scheme By-Law, in terms of Section 15(2)(g) of the Mossel Bay Municipality's Land Use Planning By-Law, 2021 in order to approve a Site Development Plan on the consolidated Erven 3675 and 3691, Mossel Bay.

PART G: BACKGROUND

Erven 3675 and 3691, Mossel Bay is located within the Da Nova Medical Precinct Overlay Zone. On 13 September 2019 the subject properties were notorially tied and may not be transferred separately from each other. The proposal entails the consolidation of the subject properties, and application for a permission required in terms of the Zoning Scheme to approve a Site Development Plan in order to utilise Erf 3675 for medical consulting rooms, which is a primary right within the Overlay Zone.

To allow for the proposal an application must be made for the consolidation of Mossel Bay Erven 3691 & 3675 in terms of Section 15(2)(e), a permission required in terms of the Zoning Scheme to approve the Site Development Plan in terms of Section 15(2)(g) of Mossel Bay Municipality By-Law on Municipal Land Use Planning, 2021.

PART H: SUMMARY OF APPLICANTS MOTIVATION

- The main purpose of the application is to accommodate more consulting rooms, and additional amenities. It also allows for the creation of shared parking spaces, which is a crucial consideration for medical facilities. The dedicated, well-designed parking area ensures convenience for patients.
- The larger parking areas will help reduce the problem of parking congestion, a common issue in medical practices in the area thereby enhancing patient satisfaction and streamlining operations.
- Consolidating the two erven, will make better use of space, creating a larger, more flexible footprint for the medical consulting rooms. The consolidated proposal will also lead to better infrastructure integration. With the consolidated property, the new integrated design addresses also accessibility needs (ramps, wider doors, accessible entrances, parking) for patients with disabilities and the elderly.
- Consolidating the two erven for a new medical consulting facility with shared parking offers many motivational benefits — better land use, efficient parking, improved patient access. It contributes to the already successful Healthcare Precinct that can cater to a growing demand. Overall, the new property will improve the operational efficiency.
- The proposed consolidation will result in the effective use of land and improved functionality of the existing consulting rooms on Erf 3691.
- The newly proposed building on Erf 3675 will provide parking on the new concrete roof, accessed via a ramp from Da Gama Street as well as directly from Robbie Scholtz Street. The floor below will consist of the medical consulting rooms.
- The parking layout provides 21 x parking bays, on-site that includes a paraplegic drop-off bay (Bay 18). 17 x parking bays will be provided on the new concrete roof parking and 3 x parking bays along Da Gama Street including 1 x paraplegic parking bay.
- Medical Consulting Rooms are one of the additional uses permitted within this overlay zone as a Primary Right.
- Since the Local Municipality (Mossel Bay Municipality) has taken over the role of the 'Administrator' they have the authority to provide consent for conditions imposed by the Administrator. These conditions can be removed with the permission of the Administrator (i.e. Mossel Bay Municipality).
- The application area is situated in Extension 5 of Da Nova within the existing urban fabric and the Da Nova Medical Precinct. The character of the immediate surrounding area is characterised predominantly by medical consulting uses and the most iconic landmark in the area is the Bay View Life Private Hospital.
- Some single residential properties are still present towards the north/west. Other land uses in the immediate surrounding area east of the application area is a mixed-use property (General Residential & Business) general residential (Flats) and 2 public Open Space erven.
- The proposed application will not create a "new" land use in the area but can be seen as the expansion of the existing Medical Centre, within the Da Nova Medical Precinct. Seeing that this is an existing facility it is the considered opinion that the proposed expansion will be consistent with the existing character of the area. The proposal will also increase the functionality of the facility and contribute to the aesthetic improvement of the area.
- According to the Mossel Bay Municipality Spatial Development Framework (SDF), the application area is situated inside the urban edge of Mossel Bay, earmarked for 'restructuring built up' (Area 23) and within an identified precinct area, being the Da Nova Medical Precinct.
- The proposed development will not impact the existing land use rights of any surrounding Property Owners in the area. The proposal will also improve traffic congestion currently experienced on site and they have implemented strategies to minimise pressure on the current road network. The proposal is for the landowners to exercise their Primary Land Use Right and the proposal will not prevent any surrounding Owner from exercising their legal Land Use Rights.
- The proposal will have several positive socio-economic impacts at various levels, benefiting both the local community and the broader economy.
- The proposal will lead to direct job creation in the medical facility typically for healthcare professionals, administrative and support roles and support staff. This contributes to local employment opportunities, reducing unemployment rates, improving the livelihoods of the community members and boosting the local economy.
- The proposed expansion will allow this facility to continue to serve as a valuable economic anchor for the community, providing essential services, job opportunities, and contributing to the overall growth and prosperity of the area.
- The application meets the criteria as set out in the Spatial Planning and Land Use Management Act (SPLUMA) and the Mossel Bay Municipality By-Law on Municipal Land Use Planning (2021) and is desirable. It is therefore recommended that the application be supported by the relevant authorities and approved by Mossel Bay Municipality.

PART I: ADVERTISEMENT											
Methods of advertising				Date published			Closing date for comments				
Press	Y	N	N/A								
Gazette	Y	N	N/A								
Notices	Y	N	N/A	13/02/2025			14/03/2025				
Ward Councillor	Y	N	N/A	13/02/2025			14/03/2025				
Site notice	Y	N	N/A	13/02/2025			14/03/2025				
Community organisation(s)	Y	N	N/A								
Section 79	Y	N	N/A	14/02/2025			14/03/2025				
Public meeting	Y	N	N/A								
Third parties	Y	N	N/A								
Other	Y	N	If yes, specify		N/A						
Total valid comments				1			Total valid objections		1		
Valid petition(s) in support				Y	N	If yes, number of signatures		N/A			
Community organisation(s) response				Y	N	N/A	Ward councillor response		Y	N	N/A
Total letters of support				0							
Was public participation undertaken in accordance with Section 45- 49 of the Mossel Bay By-law on Municipal Land Use Planning								Y	N		
PART J: SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION											
<u>Land Use Planning Committee (Annexure F)</u>											
<ul style="list-style-type: none"> The LUPC, as a Committee of Council, reserves its right to lodge an Appeal against the decision made on this application based on the outcome of the Public Participation Process and comments received thereon. 											
<u>J Steenkamp (Annexure G)</u>											
<ul style="list-style-type: none"> First of all, I just want to mention that the hospital was built in the wrong place. There is a large open piece of land in front of Da Nova that was set aside for it. There would have been no problem with parking and the hospital could have been built much bigger. But then the Municipality had to demolish the affordable housing for doctor's offices. As everyone already knows, there is no more room for parking in Da Nova. The parks are also all transformed into hospitals and parking for staff, every day we have to see how the traffic hands out tickets to visitors who cannot find parking. None of these consulting rooms meet the requirements set for the number of parking spaces that meet municipal requirements. The streets are dangerous for people who have to walk from parking to doctor's offices. They are only allowed to build as they wish and building regulations do not apply to them. The erven that are being consolidated are not even next to each other, which according to law, cannot happen, but as I understand there are separate laws for the medical people. We still live in our house, here is a three-story building next to our building. For a year I had to cover my plants and trees with plastic for the cement dust. The windows all look into our kitchen because they built almost up to our boundary wall. Apparently, this is allowed for doctors. We now have to break in a new back door on the other side of the house to at least get some privacy. I really hope that the Municipality will come and see what the streets look like, vehicles are parked on sidewalks. The land valuations of the old residents who still live here have skyrocketed. I really hope you will reject this consolidation. 											
PART K: SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS											
Name		Summary of comments				Recommendation					
Mossel Bay Municipality:		Electrical connection of Erf 3675 to be disconnected. Only one electrical connection per erf allowed.				Positive	Negative		Comment		

Electrotechnical Services	The Electrical Department issued a letter of confirmation of available electrical supply capacity (Annexure K).			
Mossel Bay Municipality: Street and Stormwater	Stormwater is anticipated to be discharged via a 300mm diameter pipe into an existing stormwater catchpit in Da Gama Street. Capacity of proposed pipe as well as capacity of existing stormwater infrastructure to be determined to establish adequacy.	Positive	Negative	Comment
Mossel Bay Municipality: Water and Sanitation	As per Engineering Services Statement compiled by DMS Structures Mossel Bay (Pty) Ltd.	Positive	Negative	Comment
Mossel Bay Municipality: Community Services	No objections.	Positive	Negative	Comment
Mossel Bay Municipality: Traffic Department	No objection subject to construction activities shall not impede on traffic flow.	Positive	Negative	Comment

PART L: REPLY TO COMMENTS

J Steenkamp

- The Mossel Bay Municipality: Zoning Scheme By-Law, 2021 prescribes 4 parking bays per medical consulting room. A total of 4x consulting rooms are proposed on the consolidated property therefore, a total of 16 x parking bays will be required for the newly consolidated Erf. [4 x 4 = 16 x parking bays]. The parking layout provides 21 x parking bays, on-site. The proposal complies with the required number of parking and a surplus of 5 parking bays.
- The properties are adjacent to each other and an application for consolidation can therefore be submitted. The proposed consolidation will allow for a consolidated facility with better accessibility and maneuverability, easing the traffic situation on Da Gama Street, and only taking traffic from it but not onto it.

Land Use Planning Committee (LUPC)

- The LUPC should list any comments / concerns as per Section 50(3), else the comments cannot be regarded as "valid".

Roads and Stormwater

- The Site Development Plan is being revised based on inputs from the appointed traffic engineers and the final Traffic Study is in the process of being finalised and will be provided upon finalisation.
- Noted, the Stormwater Section in the Civil Services Report is in line with this requirement. The final civil service design will be done and provided on approval of SDP to confirm the capacity of both pipe and existing stormwater infrastructure.

Electrotechnical

- Electrical Engineer has been appointed. The Electrical Engineering Report is in the process of being finalised and will be provided upon finalisation.

Water and Sanitation

- The appointed civil engineer met with this Department on 24 April 2025. An enclosed access route between the existing building and the proposed new building to meet the Medical Board's requirements for shared services is required.
- To ensure continued municipal access to the existing sewer line, a service corridor adjacent to the existing building is proposed. This corridor will allow unobstructed access for maintenance while the proposed enclosed access bridges over the sewer line. As a prerequisite, it will be ensured that should the founding material be anything other than bedrock, the proposed retaining wall foundation will distribute loads well below the sewer infrastructure. Additionally, the service corridor will feature interlocking pavers with a minimum of 150 mm G7 underlay to facilitate straightforward access for future maintenance.
- This department in principle agreed to this approach, subject to the submission of the necessary sectional drawings and a revised Site Development Plan (SDP), which is in the process of being revised to address this and traffic concerns. The revised Services Report is attached (to be finalised upon receipt of updated SDP) and was sent to the relevant department for further comment.

Conclusion		
<ul style="list-style-type: none"> The Site Development Plan has been revised to address the comments received from the internal municipal departments and the recommendations made by the appointed traffic engineer and civil engineers, addressing all the concerns. The consolidated facility will have better accessibility and maneuverability, easing the traffic situation on Da Gama Street, and only taking traffic from it but not onto it. The objection received refers to laws not being adhered to and the proposal not complying with the prescribed parameters, which is not true as the proposal complies with the Prescribed Parameters and should be disregarded. If deemed necessary by the Municipality, additional safety measures or requirements will be adhered to. The revised Site Development Plan, revised Civil Engineering Report, Traffic Report & Electrical Engineering Report, will be provided as soon as it is finalised. 		
PART M: MUNICIPAL ASSESSMENT OF COMMENTS		
The objection received was sufficiently addressed by the Applicant. The following should also be considered:		
<ul style="list-style-type: none"> It must be noted that the application is only for the consolidation of two erven and the Primary Rights have vested through the Da Nova Overlay Zone . The additional application for the approval of a Site Development Plan confirms that there are sufficient provision made for on-site parking. The Da Nova Parking Study: Da Nova Precinct and Life Bay View Hospital, Mossel Bay Report was compiled by SMEC Professional Engineering Consultants, and it states that adequate parking is provided for the hospital and it is recommended that adequate on-site parking should be provided for other medical facilities in the area in line with the Land Use Restriction as stipulated in the relevant Zoning Scheme. Sufficient on-site parking can be provided on site. The proposal is in line with the Da Nova Precinct Plan and various properties in the surrounding area have already been converted into medical related practices. The older dwelling houses are being converted into more modern designed structures which uplifts the area and increases the property values. 		
PART N: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)		
Was the application processed correctly (if no, elaborate below):	Y	N
N/A		
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)	Y	N
Application history		
<p>Marika Vreken Urban & Environmental Planners, on behalf of the property owner of Erven 3675 and 3691, Mossel Bay (Centra Nova (Pty)Ltd) submitted a Land Use Application to the Mossel Bay Municipality on 23 January 2025, for Consolidation and permissions in terms of the Zoning Scheme for the approval of a SDP.</p> <p>For the Public Participation Process, it was only deemed necessary to involve the immediate surrounding Property Owners in the Public Participation Process. For the Public Participation Process, a Site Notice was placed on the property, the application was sent to the surrounding Property Owners via registered mail and via email to the applicable Ward Councillor and the Land Use Planning Committee (LUPC). There was only one objection submitted in response to the Public Participation Process followed.</p>		
(In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA)		
The application can be considered to be consistent with the provisions of SPLUMA.		
<p>Spatial Justice: The Principle of Spatial Justice deals with addressing the imbalances of the past regarding access and use of land using various Policy Instruments dealing with Spatial Planning and Land Use Management. This principle therefore has no bearing on the proposed development as the proposed use is in keeping with urban development within the urban edge and is a private development.</p> <p>Principle of Spatial Sustainability: The proposed development is within the urban edge of Mossel Bay, within an established urban environment and does not trigger any environmental listed activities. The proposal will uplift the area and result in the increase of property values. The operation of medical consulting rooms in the area will contribute to the strengthening of the local economy. The proposed development will thus promote and stimulate the effective and equitable functioning of land markets within Da Nova, which will facilitate viable communities. The proposed development is thus considered to contribute to the promotion of land development in locations that are sustainable and limit urban sprawl.</p>		

Principle of efficiency: The proposed facility is located inside the urban edge which results in the optimal use of the existing resources and infrastructure. A Land Use Development is proposed that will enhance the safety and socio-economic viability of the community. The Land Use Development Application Procedures followed, were also efficient and all timeframes were adhered to by all parties.

Spatial Resilience: This principle deals with flexibility in Spatial Planning as well as in Land Use Management Systems. The proposal will comply with the Principle of Spatial Resilience as the proposal ensure sustainable livelihoods in the communities of Mossel Bay.

Principle of Good Administration: The Public Participation Process was carried out where all adjoining neighbours and affected parties were provided an opportunity to provide comments. This allowed for the Land Use Application to be processed and finalised as all necessary information was available to make an informed decision.

(In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

The application is consistent with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014).

(In)consistency with the IDP/Various levels of SDF's/Applicable policies

The proposed development is consistent with the Mossel Bay Integrated Development Plan (IDP), Spatial Development Framework (SDF), Da Nova Precinct Plan and the Da Nova Overlay Zone Plan (Annexure G). The subject property is located within the urban edge for the optimization of existing resources and infrastructure. The proposal contributes to the core goals of the IDP, namely job creation and to strengthen the local economy.

The proposed development is in keeping with the character of the area, since the area has already been developed into a Medical Precinct and the proposal is therefore in line with the Da Nova Precinct Plan. The proposed development also adds to the essential symbiotic functioning between the hospital and future facilities as it improves convenience and accessibility.

The Mossel Bay Municipal Spatial Development Framework (MSDF) stipulates that the medical node at Da Nova should continue to be promoted. Therefore, the proposed development is in line with the Mossel Bay MSDF. It is also therefore justifiable to allow such development given the provisions of the Municipal SDF guidelines and readily availability of urban basic amenities, a site that is easily accessible and in close proximity to other compatible land uses whilst being in keeping with nature and the character of the area.

(In)consistency with guidelines prepared by the Provincial Minister

N/A

Impact on Municipal engineering services

Detailed Engineering Services Report for the project has been completed. It was concluded that sufficient municipal engineering services exist to accommodate the proposal. The summary of the outcome of the Engineering Services Report can be summarised as follows:

Stormwater:

Stormwater will be collected in strategically positioned catchpits and discharged via a 300mm underground pipe into the existing 300mm municipal stormwater network on Da Gama Street. Stormwater from the rooftop parking will be collected and discharged via downpipes to the proposed stormwater catchpits.

Water

- In line with accepted design consumptions, assumptions, criteria and standards, the ADD for this proposed development is calculated and estimated at 655 l/day.
- Peak demand, including all peak factors, is estimated at 1.8 l/s.
- The water connection will be to the 110 mm municipal water main in Scholtz Street.

Sewer

- A municipal sewer line traverses Erf 3691 along the northern boundary and will remain in its current location. To ensure ongoing municipal access for inspection and maintenance, a dedicated service corridor will be constructed adjacent to the existing building. This corridor will be surfaced with interlocking pavers to provide removable coverage and facilitate straightforward access to the sewer infrastructure as required.
- Human Settlement Planning and Design Vol II states that schools and business sites need not be considered as the generated flows are relatively minor and do not peak simultaneously as the main residential flows.
- For information, the development's ADWF can be accepted as equal to the ADD at 655 l/day, equal to 0.008 l/s.
- The design peak flow, including a peak factor of 2.5 and 15% extraneous flow, is 0.023 l/s.

Solid Waste

Non-medical solid waste is to be collected by the Municipality as part of their regular routine in Mossel Bay.

Electrical:

- Project to be supplied from Da Nova Substation. Confirmation of spare capacity required from Mossel Bay Municipality.
- A 300A 25kA circuit breaker will be installed in Da Nova SS and a 150mm² 4Cr Cu PVC SWA 600/1000V cable will be installed up to the property boundary corner of Erf 3691. A 6Way LV bulk metering kiosk with AMR meter, testblock, CT, Modem and antenna will be installed. A 250A -20kA circuit breaker will be installed in the 6Wak LV bulk metring kiosk. Mossel Bay Municipality will take over all external electrical installation with respect to the property bounders after inspection and acceptance.
- The applied tariff, SCALE 5 - SPECIAL BULK SUPPLY. The supply to erf 3675 will be decommissioned and removed. The supply to erf 3691 will be replaced with above mentioned installation.
- All costs owed to Mossel Bay Municipality will be payable at the ruling rate at the time of payment.

Traffic Impact Study:

From the discussions provided in this Report, it is recommended that the proposed development on Erven 3675 and 3691, Mossel Bay, indicated on the attached Site Development Plan and Layout Plans, be supported from a traffic impact perspective, on the following conditions:

- That, due to layout constraints, vehicles exceeding the size of a passenger car not be permitted on-site, except in abnormal or emergency cases.
- That the gradient of the referenced access ramp, which is not specified on the attached Layout Plans, be designed in accordance with the relevant standards.
- Moreover, that the relevant municipal authorities be consulted regarding the provision of safe pedestrian facilities within the road reserve of Da Gama Street, where on-street parking is currently permitted. This matter should, however, be addressed separately from the town planning application.

The proposal will not have a negative impact on the municipal engineering services as both erven are already serviced. Should any expansion of municipal engineering services be required, it shall be at the cost of the Developer and in compliance with the requirements of the Director: Infrastructure Services and Director: Planning & Economic Development.

Outcomes of investigations/applications i.t.o other legislation

The Title Deed (T25685/2019) of Erf 3675 Mossel Bay contain Restrictive Title Deed Conditions that prohibit the proposed development, namely, Conditions C(4)(b), C(4)(c), C(4)(d). These conditions do not have to be formally removed, since only the written consent from the Administrator (i.e. Mossel Bay Municipality) is required. The Title Deeds are attached hereto as Annexure D.

Existing and proposed zoning comparisons and considerations

The consolidated property will have a split zoning of Single Residential Zone I and Business Zone IV, however, the Overlay Zone Rights (Medical Uses) will be implemented in terms of the Mossel Bay Municipality Zoning Scheme By-Law, 2021 and will have to be developed accordingly. The general purpose of the Da Nova Medical Precinct Overlay Zone is described as follows in the Zoning Scheme By-Law:

“The general purpose of the Da Nova Medical Precinct Overlay Zone is to provide a Framework and detailed Parameters to promote the development of a Medical Precinct in Da Nova in order to accommodate a spatial structure for medical and health services that can cope with the requirements of the day. It endeavours to build on the growing strength and capacity of the existing medical facilities to create a strong cluster of health services and to create effective linkages and access between the Da Nova medical facilities and the Provincial Hospital with the view on future Legislative Requirements and Policies. It aims to meet the Spatial Policies of mixed uses, densification, urban renewal, job creating and to increase access to healthcare and adding value and vibrancy to the area. The purpose of the Overlay Zone is furthermore to attract investment to the town that could contribute to Mossel Bay being recognised as a leading medical destination, boosting the local economy.”

The following Development Parameters are applicable to medical uses:

Street building line	5 meters Parking, landscaping and walkway related infrastructure is allowed as per Site Development Plan within the 5 meters building line. Scheme building lines apply where services are located within building lines and all services servitudes remains applicable.
Side building line	1.5 meters or up to 0 meters with consent of adjacent Owners and the Municipality for up to two storey buildings. 3 meters for building more than 2 storeys or up to 0 meters with consent of adjacent Owners and the Municipality.

	Scheme building lines apply where services are located within building lines and all services servitudes remains applicable.
Rear building line	1.5 meters or up to 0 meters with consent of adjacent Owners and the Municipality for up to two storey buildings. 3 meters for building more than 2 storeys or up to 0 meters with consent of adjacent Owners and the Municipality. Scheme building lines apply where services are located within building lines and all services servitudes remains applicable.
Coverage	70%
Parking	The number of parking bays required is determined as per Scheme. Parking can be provided on-street or as per Section 42 of the Scheme or contributions can be made to communal parking facilities with the approval of the Municipality. Sections 44 and 45 of the Scheme will not apply. Parking provision and location will be evaluated via a provided Site Development Plan which shows parking provision within the larger context.
Height	9 meters
General	All other Scheme Development Parameters will be evaluated via a Site Development Plan Application and will be applicable as determined by the Municipality.

The Mossel Bay Zoning Scheme By-Law requires that a Site Development Plan be approved for "Medical Uses". Therefore, application is made for A Permission in terms of the Zoning Scheme By-Law, in terms of Section 15(2)(g) of the Mossel Bay Municipality's Land Use Planning By-Law, 2021 to approve a Site Development Plan for Erven 3675 and 3691 Mossel Bay.

The desirability of the proposal

Character of the area:

The application area is situated in Extension 5 of Mossel Bay within the existing urban fabric and The Da Nova Medical Precinct. The character of the immediate surrounding area is characterised predominantly by medical consulting uses and the Bay View Life Private Hospital. Some single residential properties are still present towards the north/west. Other land uses in the immediate surrounding area east of the application area is a mixed-use property (General Residential & Business) General Residential (Flats) and 2 Public Open Space erven.

The proposed application will not create a "new" land use in the area but can be seen as the expansion of the existing Medical Centre, within the Da Nova Medical Precinct. Seeing that this is an existing facility it is the considered opinion that the proposed expansion will be consistent with the existing character of the area. The proposal will also increase the functionality of the facility and contribute to the aesthetic improvement of the area. The character of the area has evolved into an established Medical Precinct. The proposal will tie in perfectly with the character of the surrounding area and contribute to the overall vision of the precinct.

Consolidation:

The main purpose of the application is to accommodate more consulting rooms, and additional amenities. It also allows for the creation of shared parking spaces, which is a crucial consideration for medical facilities. The dedicated, well-designed parking area ensures convenience for patients. The larger parking areas will help reduce the problem of parking congestion, a common issue in medical practices, and in the area thereby enhancing patient satisfaction and streamlining operations. Consolidating the two erven, will make better use of space, creating a larger, more flexible footprint for the medical consulting rooms. The consolidated proposal will also lead to better infrastructure integration.

Access & Roads:

The newly proposed building on Erf 3675 will provide parking on the new concrete roof, accessed via a ramp from Da Gama Street as well as directly from Robbie Scholtz Street. The floor below will consist of the medical consulting rooms. The Mossel Bay Municipality: Zoning Scheme By-Law, 2021 prescribes 4 parking bays per medical consulting room. A total of 4 x consulting rooms are proposed on the consolidated property therefore, a total of 16x parking bays will be required for the newly consolidated Erf. [4 x 4 = 16 x parking bays]. The parking layout provides 21 x parking bays, on-site that include a paraplegic drop-off bay (Bay 18). 17 x parking bays will be provided on the new concrete roof parking and 3 x parking bays along Da Gama Street including 1 x paraplegic parking bay.

Site Development Plan:

The Site Development complies with the relevant requirements, as set out in terms of Section 23 of the Mossel Bay Zoning Scheme By-Law, 2021.

Conclusion:

The proposed development will not impact the existing Land Use Rights of any surrounding Property Owners in the area. The proposal will also improve traffic congestion currently experienced on site with implemented strategies to minimise

pressure on the current road network. The proposal is for the Landowners to exercise their Primary Land Use Right in a more sufficient manner and the proposal will not prevent any surrounding Owner from exercising their legal Land Use Rights.

PART O: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights

None of the Subject Restrictive Conditions are registered in favour of any other person or entity. In this particular case, the conditions were imposed as restrictions on the Property Owner. No third party is therefore affected by the proposed removal of these conditions.

The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal

The Restrictive Title Deed Conditions do not accrue any rights to a third party or entity and is this consideration is not deemed to be applicable to the evaluation of this Land Use Application.

The social benefit of the restrictive condition remaining in place, and/or being removed/amended

There is no social benefit for either the Property Owner or any third party, should these restrictive conditions remain in place in its existing form. There are, however, social benefits if the conditions are removed and the development is approved as the proposed medical consulting rooms will ensure better health services in Mossel Bay.

Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights

The removal of the conditions will not impede on any of the existing rights enjoyed by the Owner or any third party. The proposed development is deemed to have an insignificant and local impact of which will be controlled through the provisions of the applicable Zoning Scheme By-Law and conditions of approval, should this application be approved.

PART P: SUMMARY OF EVALUATION

The proposal is deemed as desirable given the requirements set out in terms of Section 66 of the Mossel Bay By-Law on Municipal Land Use Planning, 2021. The proposed development is in line with the existing and planned character of the precinct as a whole. The proposed development is in line with all the relevant and applicable Planning Frameworks and Legislation and is thus recommended for approval.

PART Q: DEPARTMENTAL COMMENTS

COMMENTS: MUNICIPAL MANAGER

No further comments.

COMMENTS: DIRECTOR FINANCIAL SERVICES

No further comments.

COMMENTS: DIRECTOR DEVELOPMENT AND PLANNING

No further comments.

COMMENTS: DIRECTOR TECHNICAL SERVICES

No further comments.

COMMENTS: DIRECTOR COMMUNITY SERVICES

No further comments.

COMMENTS: DIRECTOR COMMUNITY SAFETY SERVICES

No further comments.

COMMENTS: DIRECTOR CORPORATE SERVICES

No further comments.

COMMENTS: LEGAL SERVICES

No further comments.

PART R: RECOMMENDATION

That the following recommendation be made to the Eden Joint Municipal Planning Tribunal:

1. That the application for Consolidation of Erven 3675 (613m²) and 3691 (668m²), Mossel Bay in terms of Section 15(2)(e) of the Mossel Bay Municipality's Land Use Planning By-Law, 2021, **be approved**, in terms of Section 61 of the said By-Law.
2. That the application for Permission in terms of the Zoning Scheme By-Law, in terms of Section 15(2)(g) of the Mossel Bay Municipality's Land Use Planning By-Law, 2021 in order to approve the Site Development Plan (dated 2025/08/14 & Drawing No SDP001) on the consolidated Erven 3675 and 3691, Mossel Bay, **be approved**, in terms of Section 61 of the said By-Law.

3. That the approvals above are subject to the following conditions imposed in terms of Section 66 of the said legislation:

Site Development & Building Plans:

- 3.1. That, if the Developer erects a boundary wall, it must be a permeable "clearview" fence on the street boundary, to the satisfaction of the Mossel Bay Municipality.

Services and Development Contributions:

- 3.2. That the necessary Development Contributions to the Municipality, be payable in terms of Council's Policy applicable at time of payment, prior to the approval of building plans or as determined by the SA/SLA.
- 3.3. That all costs related to any future expansion of services, will be for the account of the Owner.
- 3.4. That the refuse area and waste management shall be to the satisfaction of the Mossel Bay Municipality's Waste Department.
- 3.5. That any medical waste produced by the facility, must be managed by a private contractor.
- 3.6. That the electrical connection of Erf 3675, Mossel Bay, be disconnected and that only one electrical connection per erf is permitted.
- 3.7. That the sewage and water infrastructure services comply with the Engineering Services Statement dated April 2025 compiled by DMS Structures Mossel Bay (Pty) Ltd, to the satisfaction of the Director: Infrastructure Services.
- 3.8. That a dedicated service corridor will be constructed adjacent to the existing building. This corridor will be surfaced with interlocking pavers to provide removable coverage and facilitate straightforward access to the sewer infrastructure as required to ensure ongoing municipal access for inspection and maintenance of the municipal sewer line that traverses Erf 3691 along the northern boundary and will remain in its current location, to the satisfaction of the Director: Infrastructure Services.
- 3.9. That stormwater management must be to the satisfaction of the Director: Infrastructure Services.
- 3.10. That the capacity of proposed pipe as well as capacity of existing stormwater infrastructure, to be determined to establish adequacy and if any upgrades are required, it be for the account of the Developer to the satisfaction of the Director: Infrastructure Services.

General

- 3.11. That the construction activities shall not impede on traffic flow.

Kindly note

- Consent from the Administrator (Mossel Bay Municipality) for the applicable Restrictive Title Deed Conditions C(4)(b), C(4)(c), C(4)(d) contained in Title Deed Number T25685/2019 of Erf 3675, Mossel Bay, be provided.
- That the consolidated property will have a Split Zoning of Single Residential Zone I and Business Zone IV.

- This approval does not exempt the Applicant from compliance with any other relevant legislation and/or procedures applicable to the proposal.
- The submission of building plans is to be compliant with each section of SANS 10400 and National Building Regulations.

PART S: REASONS FOR RECOMMENDATION

1. The consolidation of these two erven will permit a greater development footprint to maximise the usage of the newly created property with optimal design of buildings and space.
2. The Site Development Plan complies with the relevant requirements, as set out in terms of Section 23 of the Mossel Bay Zoning Scheme By-Law, 2021.
3. The proposal is not anticipated to detract from the rights of the surrounding Property Owners, on the contrary the value of properties in the area increase due to renovation of older residential dwellings and the demand to establish medical related practices in close proximity to the private hospital.
4. The proposed development is in line with the Da Nova Overlay Zone and is consistent with the Mossel Bay Municipal Spatial Development Framework (MSDF), which stipulates that the medical node at Da Nova should continue to be promoted.
5. The application is in line with the character of the area and contributes to the sustainable growth pattern of the existing Medical Precinct.

PART T: ANNEXURES

- Annexure A Locality Plan
- Annexure B Site Development Plan
- Annexure C Applicant's motivation
- Annexure D Title Deed
- Annexure E Objection Steenkamp
- Annexure F Comments Land Use Planning Committee
- Annexure G Da Nova Overlay Zone
- Annexure H Services Report
- Annexure I Traffic Impact Assessment
- Annexure J Electrical Services Report
- Annexure K Electrical Consent
- Annexure L Applicants response on objections and comments submitted
- Annexure M Previous approvals

PART U: SIGNATURES

Author

Registered planner name: Raimo Fernandez



SACPLAN registration number: A/2864/2019

Date: 4 September 2025

Manager (Town Planning)

Registered planner name: Jacobus Izak Roux



SACPLAN Registration Number: A/05/2007

Date: 4 September 2025

Director: Planning and Integrated Services

Carl Venter



SACPLAN Registration Number: A/1152/1999

Date: 8 September 2025

Decision maker: Eden Joint Municipal Planning Tribunal

APPROVED

APPROVED
CONDITIONALLY

APPROVED IN PART

REFUSED

Date: _____



**LAND USE PLANNING REPORT
PT35-10/2025**

APPLICATION FOR REZONING, SUBDIVISION AND CONSOLIDATION IN TERMS OF SECTION 15 OF THE MOSSEL BAY BY-LAW ON MUNICIPAL LAND USE PLANNING, 2021: ERVEN 332 & 24, HERBERTSDALE

Reference number	15/4/36/2; 5/4/36/5; 15/4/36/4 C 15492135 App 63-05/2025	Application submission date	15/05/2025	Date report finalised	22/09/2025
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PART A: AUTHOR DETAILS

First name(s)	Ruan
Surname	Le Roux
Job Title	Town Planner (Land Use Management)
SACPLAN registration number	A/2669/2018
Directorate/Department	Planning and Economic Development
Contact details	044 606 5077

PART B: APPLICANT DETAILS

First name(s)	Rossouw			
Surname	Smit			
Company Name	RS Town Planning Consultants			
SACPLAN registration number	A/2917/2020	Is the Applicant authorised to submit this application	Y	N
Registered owner(s)	➤ Erf 332, Herbertsdale: Daniel Barend Otto ➤ Erf 24, Herbertsdale: Mossel Bay Municipality			

PART C: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Erven 332 & 24, Herbertsdale				
Physical address	➤ Erf 332, Herbertsdale is located at Herbert Street (see Annexure A). ➤ Erf 24, Herbertsdale is the municipal commonage and borders the rear boundary of Erf 322, Herbertsdale (see Annexure A).	Town/City	Herbertsdale		
Current zoning	➤ Erf 332, Herbertsdale: Industrial Zone I (Light Industry) ➤ Erf 24, Herbertsdale: Agricultural Zone I (Agricultural)	Extent (m ² /ha)	Erf 332: 1428m ² ; and Erf 24: 273.704 1ha	Are there existing buildings on the property?	Y N
Applicable zoning scheme	Mossel Bay Municipality: Zoning Scheme By-Law, 2021				

Current land use	➤ Erf 332: Warehouse/Light Industrial use ➤ Subject portion of Erf 24: Vacant	Title Deed number & date	➤ Erf 332, Herbertsdale: T24795/1983 Erf 24, Herbertsdale: T5342/1978		
Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)		
Any third party conditions applicable?	Y	N	If Yes, specify		
Any unauthorised land use/building work	Y	N	If Yes, specify		
PART D: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)					
Has pre-application consultation been undertaken?	Y	N	If yes, provide a brief summary of the outcomes below.		
No pre-application consultation was required, however, the following comments were provided on the pre-application which was submitted:					
<ul style="list-style-type: none"> Please note that the potential nuisance as a result of the expansion of a light industrial site, should be addressed in the Motivation Report together with possible mitigating measure that could form part of the conditions of approval, if approved. 					
PART E: LIST OF APPLICATIONS (TICK APPLICABLE)					
Rezoning	√	Permanent departure	Temporary departure	Subdivision	√
Extension of the validity period of an approval		Approval of an overlay zone	Consolidation	√	Removal, suspension or amendment of restrictive conditions
Permissions in terms of the zoning scheme		Amendment, deletion or imposition of conditions in respect of existing approval	Amendment or cancellation of an approved subdivision plan		Permission in terms of a condition of approval
Determination of zoning		Closure of public place	Consent use		Occasional use
Disestablish a homeowner's association		Rectify failure by homeowner's association to meet its obligations	Permission for the reconstruction of an existing building that constitutes a non-conforming use		
PART F: APPLICATION DESCRIPTION					
Application for the following:					
1. The Subdivision of a Portion of Erf 24, Herbertsdale (Portion A: ±2440m ²) in terms of Section 15(2)(d) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning, 2021.					
2. The Rezoning of Portion A from "Agricultural Zone I" to "Industrial Zone I" in terms of Section 15(2)(a) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning, 2021.					
3. The Consolidation of Portion A with Erf 332, Herbertsdale in terms of section 15(2)(e) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning, 2021.					
PART G: BACKGROUND					
According to the Applicant, Erf 332, Herbertsdale is currently used for the operation of an aloe harvesting and exporting business, known as Otto's Aloes. The registered Owner of Erf 332, Herbertsdale purchased a vacant portion of adjacent Erf 24, Herbertsdale of approximately 2440m ² in size (Portion A) from Mossel Bay Municipality in 2024, under Council Resolution E31-02/2024.					
Clause 3 of the deed of sale contains the following conditions:					

- “3.1 This portion of Erf 24, Herbertsdale must be consolidated with the PURCHASER’s adjacent property, Erf 332 Herbertsdale, Herbert Street, Herbertsdale, at the cost of the PURCHASER.
- 3.2 The PURCHASER will be responsible for the costs of all applicable Environmental and Town Planning Applications, as required including, but not limited to rezoning, subdivision and consolidation costs.”

Subsequently, RS Town Planning Consultants submitted the required Land Use Application to comply with the abovementioned conditions contained within the Council Resolution E31-02/2024 and Deed of Sale, in order to enable the consolidation of the purchased property with Erf 332, Herbertsdale to take place.

Refer to Annexure D: Council Resolution E31-02/2024 and Deed of Sale.

PART H: SUMMARY OF APPLICANTS MOTIVATION

Character of the area:

Erf 332, Herbertsdale is located adjacent to an existing business node. The Applicant is of the opinion that the proposal will not have any significant impact on the existing character of the area. Portion A (Portion of Erf 24, Herbertsdale) is currently a unkept piece of land which attracts vagrants and unwanted social behaviours due to its close proximity to the liquor shop situated on Erf 190, Herbertsdale which leads to pollution and the portion of land not being properly maintained.

The Applicant is therefore of the opinion that the consolidation of proposed Portion A with Erf 332, Herbertsdale will undoubtedly have a positive impact on the overall appearance and character with the added benefit of providing a buffer between the school premises and the existing open space.

Impact on surrounding facilities:

According to the Applicant, the proposal does not propose a new development as it is merely required to legalise the existing structures and use on the property. During the pre-application stage it was requested that mitigating measures should be proposed in respect of potential noise nuisance. However, it should be noted that the frequency of vehicular traffic movement is very low (1-2 times per month). However, if mitigating measures are required, the owner is willing to plant vegetation to limit noise and visual impact.

Mossel Bay Integrated Development Plan (IDP), 2022:

The Applicant indicates that the IDP (Policy 4L) recognises the need to make optimal use of underutilised municipal land to the benefit of the community. Furthermore, the Applicant stated that the approval of this application, will benefit both the Owner and Municipality from a land use and financial perspective, while also ensuring compliance with the applicable statutory provisions.

Mossel Bay Municipal Spatial Development Framework (MSDF), 2022:

The Applicant stated that the erven in consideration are all situated within the urban edge, therefore the MSDF, 2022, does not earmark the erven for a specific future spatial use. It is evident that the subject erven do not fall inside a critical biodiversity area or an area of heritage significance.

The Applicant however identifies that the MSDF, 2022 indicates the creation of job opportunities as one of the main challenges and notes that the escalation of crime is problematic. Hence, the Applicant is of the opinion that the proposed development positively contributes to these challenges; namely:

1. The existing business on Erf 332, Hartenbos provides permanent job opportunities for 3 staff members and ±20 “casual/temporary staff” as the need arises. The consolidation would allow to existing business to expand in future and create direct and indirect job opportunities.
2. The purchased Portion A is currently an unsafe area which attracts criminal activities and unwanted social behaviours. Whereas, though the proposal the area will be fenced off and cannot be accessed by vagrants.

Desirability:

The Applicant motivates that the proposed application is not considered undesirable due to the following reasons:

- *“It does not have a negative impact on the environment or heritage resources.*

- *The impact on the streetscape is expected to be minimal and will be an improvement to the existing architectural character and streetscape of Skool Street.*
- *Given the infrequent expected use of the alternative access on Skool Street, traffic impact, pedestrian safety and vehicle sight distances are not expected to be negatively affected.*
- *The proposed larger site will facilitate better traffic movement and parking provision.*
- *The approvals required will have an overall positive impact and not create an unwanted precedent, while potentially contributing to the local economic development and job creation should the existing business be expanded in future."*

Access, Traffic & Parking:

The Applicant states that the access point is sufficient for the existing traffic demand, the Owner considers it prudent to provide alternative access points for heavier vehicles at the rear (Eastern) portion of the building. This may prevent parking of vehicles in Herbert Street which is narrow and not necessarily equipped to facilitate such vehicles.

It is also clear that sufficient on-site parking as prescribed in terms of the Mossel Bay Zoning Scheme By-Law, 2021 is provided on the property.

Engineering Services:

The Applicant states that the development proposal does not impact on services and does not require the provision of additional bulk service infrastructure.

See attached copy of the Motivation Report: Annexure C.

PART I: ADVERTISEMENT

Methods of advertising				Date published			Closing date for comments				
Press	Y	N	N/A	30 May 2025			30 June 2025				
Gazette	Y	N	N/A								
Notices	Y	N	N/A	30 May 2025			30 June 2025				
Ward Councillor	Y	N	N/A	30 May 2025			30 June 2025				
Site notice	Y	N	N/A	30 May 2025			30 June 2025				
Community organisation(s)		N	N/A								
Public meeting	Y	N	N/A								
Section 79 LUPC	Y	N	N/A	30 May 2025			30 June 2025				
Third parties	Y	N	N/A								
Other	Y	N	If yes, specify								
Total valid objections and comments				None							
Valid petition(s) in support				Y	N	If yes, number of signatures		0			
Community organisation(s) response				Y	N	N/A	Ward councillor response		Y	N	N/A
Total letters of support				0							
Was public participation undertaken in accordance with Section 45- 49 of the Mossel Bay By-Law on Municipal Land Use Planning									Y	N	

PART J: SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

The only comment that was obtained was from the Section 79 Land Use Planning Committee which was as follow:

The Land Use Planning Committee provided the following comment: *“Committee of Council, reserves its right to lodge an Appeal against the decision made on this application based on the outcome of the Public Participation Process and comments received thereon.”* (Attached as Annexure E).

PART K: SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments	Recommendation		
Mossel Bay Municipality: Spatial Planning Section	First comments on 16 May 2025 & Second comments on 29 August 2025	<p>First comments dated 16 June 2025: <i>“The application is not aligned to the MSDF - Erf 24 is not situated in the Medium Business Node nor the Business Corridor.”</i></p> <p>Second comments dated 29 July 2025: <i>“Site-specific circumstances, as motivated, exist that may be considered for justifying deviation.”</i></p>	Positive	Negative	Comment
Mossel Bay Municipality: Community Services	19 May 2025	<i>“No objection.”</i>	Positive	Negative	Comment
Mossel Bay Municipality: Street and Stormwater	20 May 2025 & 8 September 2025	<p>First comments dated 20 May 2025: <i>“Access to remain off Herbert Street. No industrial effluent to be discharged into road reserve or municipal stormwater infrastructure.”</i></p> <p>Second comments dated 8 September 2025: <i>“Please construct full access (bellmouth) off Skool Street in accordance with RED Book Standards and that can accommodate truck turning movement adequately without causing damage to road infrastructure up to subject property boundary.</i></p> <p><i>The following must be implemented as a minimum, but not limited hereto:</i></p> <ul style="list-style-type: none"> • 80mm block paved surface (tie into existing) • 150mm G2 base • 150mm C4 stabilized subbase • 300mm G7 • BK2 + C1 kerbing for bellmouth; • 0m bellmouth radii • Full stop road markings and signage in accordance with SARTSM” 	Positive	Negative	Comment
Mossel Bay Municipality: Building Control	21 May 2025	<i>“Supported on condition that a building plan application is submitted for the newly consolidated erf. This application must include all existing and any unauthorised structure(s) for which formal approval must be obtained. All submitted building plans must</i>	Positive	Negative	Comment

		<i>comply fully with SANS 10400 and the National Building Regulations.”</i>			
Mossel Bay Municipality: Water and Sanitation	17 June 2025	“Supported.”	Positive	Negative	Comment

PART L: REPLY TO COMMENTS

The Applicant responded to the comment from the Spatial Planning Section of the Municipality dated 16 May 2025 which can be summarised as follow:

Inconsistent: The Applicant states that he does not understand what is meant by the statement that was made that it is “not aligned” as the terminology is incompatible with SPLUMA, as it refers to “consistent”, “inconsistent”, “compliant” or “deviate” when a development proposal is assessed against a Structure Plan or Spatial Development Framework.

Subsequently the Applicant, considered the comment that the proposal is inconsistent with the MSDF, 2022 as it does not fall inside the Medium Business Node or the Business Corridor Restructuring Area. On the basis thereof, the Applicant is strongly disagrees with the statement due to the following reasons:

- a. Without a designated use that is allocated to Erf 332, Herbertsdale and Portion A, there is no basis to determine that the application under consideration is inconsistent with the MSDF, 2022.
- b. The statement that the proposal does not fall inside an identified node or corridor, which will be a misapplication of the MSDF, 2022.
- c. There is no provision in the MSDF, 2022 which states that business/industrial development may only be allowed in the Medium Business Node or the Business Corridor Restructuring Area. As this will have a dire impact for business development in Herbertsdale.
- d. There are several business uses/rights outside the allocated Business Node and Restructuring Area that cannot be ignored or taken away.
- e. The purpose of designating a node or corridor within the MSDF is to provide Development Guidelines for areas, not to prohibit development outside of them.
- f. The Mossel Bay Municipal Council agreed to the alienation of Portion A. Based on this decision, the Owner has incurred substantial costs on consultants to comply with the requirements of the deed of sale. Refusing the Owner the ability to exercise this right reflects an inconsistent application of the law.

Site Specific Circumstances: The Applicant states that, if the decision-maker is of the view that the proposal is inconsistent with the MSDF, 2022 then the following site-specific circumstances exist to justify a departure:

- 1. The proposal is supported by the Municipal Council, therefore, it can be reasonably inferred that sufficient site-specific circumstances exist.
- 2. The proposal does not propose a change in zoning of Erf 332, Herbertsdale, since only the extent of the erf (Proposed Portion of Erf 24, Herbertsdale) will be altered.
- 3. Portion A is not currently being utilised in line with its allocated zoning, namely; “Agricultural Zone I”. Instead, it is a neglected, poorly managed, degraded open space that has become a gathering area for vagrants. Subsequently, the utilisation of this portion for business purposes would clearly contribute to a better spatial development pattern.
- 4. There is no loss of sensitive vegetation or natural resources.

See attached copy of the Applicant’s response to the comments received: Annexure F.

PART M: MUNICIPAL ASSESSMENT OF COMMENTS

The Applicant provided site-specific motivation and addressed the comments from the Spatial Planning Section of the Municipality. Subsequently the Spatial Planning Section of the Municipality stated that the site-specific circumstances, as motivated, exist that may be considered for justifying deviation. The proposal has the potential to enhance the local economy. It is regarded as sensible to incorporate an underutilised portion of land into an existing property that has existing Land Use Rights for potential growth. Care must however be taken that the proposed enlarged industrial site does not have potential negative impacts on other surrounding land uses in the area that includes residential erven and a school.

PART N: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

Was the application processed correctly (if no, elaborate below):	Y	N
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)	Y	N

Application history

See **PART G: BACKGROUND.**

(In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA)

The application can be considered to be consistent with the provisions of SPLUMA. Given the five Development Principles of SPLUMA, four of the five are of significance to the proposed development and these are the Principle of Spatial Sustainability, the Principle of Efficiency and the Principle of Good Administration.

Spatial Justice: The Principle of Spatial Justice deals with redressing the imbalances of the past regarding access and use of land using various policy instruments dealing with Spatial Planning and Land Use Management. Therefore, this principle does not have any bearing within the application.

Principle of Spatial Sustainability: The proposal will enable the owner to increase the aloe harvesting and exporting business. The site-specific circumstances were motivated by the Applicant and accepted by the Spatial Planning Section of the Municipality. A Council Decision also deemed the proposal as acceptable. Furthermore, the proposal will contribute the core goals of IDP, which is job creation of which the proposed expansion will facilitate.

Principle of Efficiency: The proposal will not have a negative impact on the existing municipal infrastructure and positive comments were obtained from all internal departments. In addition, the proposal will contribute to more optimal utilisation of land within the urban edge.

Spatial Resilience: When having regard to the site-specific circumstances, the proposal is regarded as a justifying deviation with the relevant spatial planning policies. The underutilised portion of land is situated adjacent to Erf 332, Herbertsdale with existing Land Use Rights and the proposal will enable a more optimally utilisation of the vacant land within the urban edge.

Principle of Good Administration: A transparent Public Participation Process was carried out during the Land Use Planning Process where adjoining neighbours and affected parties were provided an opportunity to provide comments. This allows for the Land Use Application to be processed and finalised as all necessary information is available to make an informed decision.

(In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

N/A

(In)consistency with the IDP/Various levels of SDF's/Applicable policies

Please refer to comments from the Spatial Planning Section of the Municipality within Part K.

(In)consistency with guidelines prepared by the Provincial Minister

N/A

Impact on Municipal engineering services

The application was circulated to all the Infrastructure Services Departments and none of the departments indicated that the proposal would have an impact on municipal engineering services.

Outcomes of investigations/applications i.t.o other legislation

N/A

Existing and proposed zoning comparisons and considerations

If the proposed Portion of Erf 24, Herbertsdale (Portion A), is rezoned, subdivided and consolidated with Erf 332, Herbertsdale the zoning will change to "Industrial Zone I" (light industry), in terms of the Mossel Bay Municipality: Zoning Scheme By-Law, 2021 which will create one large light industrial erf that will adhere to the applicable Development Parameters. Mitigating measures such as tree planting and landscaping along the property boundaries will assist to soften the impact of the activities on the site.

The desirability of the proposal

Desirability is defined in the land use planning context as the degree of acceptability of a proposed development on the land unit concerned. The Applicant motivated several points in order to support the site-specific circumstances, which was regarded as a justifying deviation. The proposal will enable the implementation of the Council Decision, possibility of

job creation and the optimal utilisation of underutilised land within the urban edge. Furthermore, the proposal will not have a negative impact on existing Municipal Infrastructure, therefore the proposal can be regarded as desirable.

PART O: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights

N/A

The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal

N/A

The social benefit of the restrictive condition remaining in place, and/or being removed/amended

N/A

Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights

N/A

PART P: SUMMARY OF EVALUATION

The site-specific circumstances enables the proposal was regarded as a justifying deviation with the Spatial Planning Policies and accepted by Council by means of the Council Decision in support of the proposal. The proposal will not negatively impact on existing municipal infrastructure as confirmed by the relevant Technical Departments. Furthermore, no objections were received from the relevant Ward Councillor or surrounding properties. The proposal will enable the Owner to give effect to the Council Resolution E31-02/2024.

PART Q: DEPARTMENTAL COMMENTS

COMMENTS: MUNICIPAL MANAGER

No further comments.

COMMENTS: DIRECTOR FINANCIAL SERVICES

No further comments.

COMMENTS: DIRECTOR DEVELOPMENT AND PLANNING

No further comments.

COMMENTS: DIRECTOR TECHNICAL SERVICES

No further comments.

COMMENTS: DIRECTOR COMMUNITY SERVICES

No further comments.

COMMENTS: DIRECTOR COMMUNITY SAFETY

No further comments.

COMMENTS: DIRECTOR CORPORATE SERVICES

No further comments.

COMMENTS: LEGAL SERVICES

No further comments.

PART R: RECOMMENDATION

1. The subdivision of a Portion of Erf 24, Herbertsdale (Portion A: ±2440m²), in terms of Section 15(2)(d) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning, 2021, **be approved**, in terms of Section 61 of the said By-Law.

2. The rezoning of Portion A from "Agricultural Zone I" to "Industrial Zone I" (light industry), in terms of Section 15(2)(a) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning, 2021, **be approved**, in terms of Section 61 of the said By-Law.
3. The consolidation of Portion A with Erf 332, Herbertsdale, zoned as "Industrial Zone I" (Light Industry), in terms of Section 15(2)(e) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning, 2021, **be approved**, in terms of Section 61 of the said By-Law.
4. That the approvals above are subject to the following conditions imposed in terms of Section 67 of the said legislation:

Building Plans & Landscaping:

- 4.1 That new building plans must be submitted for the consolidated property that include all existing and any unauthorised structure(s) for which formal approval must be obtained to the satisfaction of the Director: Planning and and Economic Development.
- 4.2 That building plans be referred to the Aesthetics and Heritage Advisory Committee for perusal and comments, before building plans can be submitted for consideration.
- 4.3 That trees must be planted along the consolidated property boundary together with landscaping.
- 4.4 That a landscaping plan must be submitted with the building plan for evaluation.
- 4.5 That water tanks must be placed on the consolidated property and reflected on the building plan for irrigation of the landscaping along the property boundary.
- 4.6 That a fence must be erected along the boundary of the consolidated property.
- 4.7 That the detail of the height and materials used for the fence must be submitted with the building plan for evaluation.

Services and Development Contribution:

- 4.8 That, if any expansion of municipal engineering services is required, it shall be at the cost of the Owner and in compliance with the requirements of the Director: Infrastructure Services.
- 4.9 That the necessary Development Contributions to the Municipality be payable in terms of Council's Policy applicable at time of payment, prior to the approval of building plans.
- 4.10 That refuse area must be provided to the satisfaction of the Director: Community Services.
- 4.11 That the Applicant/Owner must construct a full access (bellmouth) off School Street in accordance with RED Book Engineering Standards and that can accommodate truck turning movement adequately without causing damage to road infrastructure up to subject property boundary.
- 4.12 That the access referred to in Condition 4.11 above, must be constructed before building plans may be submitted for consideration.
- 4.13 That the access within Condition 4.11 above, must be implemented as a minimum, but not limited hereto to the satisfaction of the Director: Infrastructure Services:
 - 80mm block paved surface (tie into existing);
 - 150mm G2 base;

- 150mm C4 stabilized subbase;
- 300mm G7;
- BK2 + C1 kerbing for bellmouth;
- 0m bellmouth radii; and
- Full stop road markings and signage in accordance with SARTSM.

General:

- 4.14 That the Municipality be provided, free of charge, with the Surveyor General Diagrams upon registration of the subdivision and consolidation.
- 4.15 That all costs related to the development, be for the account of the Applicant/Owner.
- 4.16 That no industrial effluent may be discharged into the road reserve or municipal stormwater infrastructure.

Kindly note:

- That the National Building Regulations be adhered to at all times.
- That this approval does not exempt compliance with any other legislation that may be applicable to the proposed development.
- That the Conditions of Deed of Sale, be adhered to.
- That care should be taken that the consolidated property is always kept in a neat manner and that the impact on surrounding property Owners such as noise be minimised due to surrounding residential properties.

PART S: REASONS FOR RECOMMENDATION

1. The proposal is regarded as justifiable deviation from with the relevant Spatial Planning Policies, due to the site-specific circumstances to optimally utilise a vacant portion of land within the urban edge located adjacent to a property with existing light industrial rights.
2. The proposal has an opportunity for job creation and enhancing the local economy.
3. The proposal does not have negative impacts on municipal infrastructure services.
4. The proposal will enable the Owner/Applicant to give affect to the Council Resolution E31-02/2024.
5. The proposal is considered to be consistent with the provisions of SPLUMA, since the proposal will contribute to viable communities through job creation and the optimalisation of existing resources/infrastructure.
6. The mitigating measures of tree planting and landscaping along the consolidated property boundary will assist in enhancing the area and soften the impact of the light industrial activities of the consolidated property.

PART T: ANNEXURES

Annexure A	Locality Plan
Annexure B	Subdivision Plan
Annexure C	Motivation report
Annexure D	Council Resolution E31-02/2024 and Deed of Sale
Annexure E	Section 79 Land Use Planning Committee comments
Annexure F	Applicant's response to the comments received
Annexure G	Conveyancer Certificates
Annexure H	Title Deeds

PART U: SIGNATURES

Author

Registered planner name: Ruan le Roux



SACPLAN registration number: A/2669/2018

Date: 8 September 2025

Manager Town Planner

Registered planner name: Jaco Roux



SACPLAN Registration Number: A/05/2007

Date: 8 September 2025

Director: Planning and Integrated Services

Carl Venter



SACPLAN Registration Number: A/1152/1999

Date: 9 September 2025

Decision maker: Eden Joint Municipal Planning Tribunal

APPROVED

APPROVED
CONDITIONALLY

APPROVED IN PART

REFUSED

Date: _____



MOSSSEL BAY MUNICIPALITY

P O Box 25
Mossel Bay
6500

Tel No: +27(44) 606 5000
Fax No: +27(44) 606 5062
e-mail: admin@mosselbay.gov.za
Website: www.mosselbay.gov.za

**LAND USE PLANNING REPORT
PT36-10/2025**

APPLICATION FOR REZONING, CONSOLIDATION, PERMANENT: DEPARTURES & REMOVAL OF RESTRICTIVE TITLE DEED CONITIONS IN TERMS OF SECTION 15 OF THE MOSSSEL BAY BY-LAW ON MUNICIPAL LAND USE PLANNING, 2021: IN ORDER TO ESTABLISH A CAR DEALERSHIP ON ERVEN 5116, 5117 & 5118, MOSSSEL BAY

Reference number	15/4/12/2;15/4/12/5; 15/4/12/4 C 15613675 App 107-12/2023	Application submission date	18/12/2023	Date report finalised	28/10/2024
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PART A: AUTHOR DETAILS

First name(s)	Raimo
Surname	Fernandez
Job Title	Town Planner
SACPLAN registration number	A/2864/2019
Directorate/Department	Planning and Economic Development
Contact details	044 606 5012

PART B: APPLICANT DETAILS

First name(s)	Marike			
Surname	Vreken			
Company Name	Marike Vreken Urban & Environmental Planners			
SACPLAN registration number	A/1101/1999	Is the Applicant authorised to submit this application	Y	N
Registered owner(s)	RZT ZELPY 4236 (PTY) LTD			

PART C: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Erven 5116, 5117 and 5118, Mossel Bay				
Physical address	Tolbos Crescent, Heiderand	Town/City	Mossel Bay		
Current zoning	5116- Single Residential Zone I 5117- Single Residential Zone I 5118- Business Zone II	Extent (m2 /ha)	5116 - 720m ² 5117 - 720m ² 5118 - 720m ²	Are there existing buildings on the property?	Y N
Applicable zoning scheme	Mossel Bay Municipality Zoning Scheme By-Law, 2021				
Current land use	5116 - Vacant 5117 - Vacant 5118 - Shop (Car dealership)	Title Deed number & date	5116 - T20343/2022 5117 - T20343/2022 5118 - T2817/2022		
Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)	5116 - T20343/2022 - Condition C(d) 5117 - T20343/2022 - Condition C(d) 5118 - T2817/2022 - Condition B(d)	

Any third party conditions applicable?	Y	N	If Yes, specify	
Any unauthorised land use/building work	Y	N	If Yes, specify	Erf 5118, Mossel Bay is restricted to a motor dealership with an unauthorised shop operating from the premises.

PART D: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

Has pre-application consultation been undertaken?	Y	N	If yes, provide a brief summary of the outcomes below.
<ul style="list-style-type: none"> The scale and impact the proposal will have on the surrounding residential land uses and character is a concern. Please note that adding a service area will generate more traffic into the area which might lead to further traffic and concerns for the surrounding property Owners. The Development Parameters that apply will be as per the Zoning Scheme By-Law, however, it is advised to still apply for the Removal of Restrictive Conditions in order to encroach on the 10m building line adjacent to Louis Fourie Road. Consent from the Roads Authority is required regarding the 10m building line. It is advised that the highest point on the western side of the building not exceed the highest point of the surrounding residential properties (8m) in order to lessen the visual impact. The direct access from the street must be addressed. The functioning of the facility toward Louis Fourie Road is recommended and a possible access over Erf 16092 could be considered if possible. 			

PART E: LIST OF APPLICATIONS (TICK APPLICABLE)

Rezoning	X	Permanent departure	X	Temporary departure		Subdivision	
Extension of the validity period of an approval		Approval of an overlay zone		Consolidation	X	Removal, suspension or amendment of restrictive conditions	X
Permissions in terms of the zoning scheme		Amendment, deletion or imposition of conditions in respect of existing approval		Amendment or cancellation of an approved subdivision plan		Permission in terms of a condition of approval	
Determination of zoning		Closure of public place		Consent use		Occasional use	
Disestablish a homeowner's association		Rectify failure by homeowner's association to meet its obligations		Permission for the reconstruction of an existing building that constitutes a non-conforming use			

PART F: APPLICATION DESCRIPTION

1.	Rezoning of Erven 5116 & 5117, Mossel Bay from Single Residential Zone I to Business Zone II, in terms of Section 15(2)(a) of the Mossel Bay Municipality's Land Use Planning By-Law, 2021;
2.	Consolidation of Erven 5116, 5117 & 5118, Mossel Bay to create a property measuring 2160m ² , in terms of Section 15(2)(e) of the Mossel Bay Municipality's Land Use Planning By-Law, 2021;
3.	Permanent Departure for the relaxation of the prescribed height restriction from 9m to 12m, in terms of Section 2(b) of the Mossel Bay Land Use Planning By-Law, 2021;
4.	Permanent Departure in terms of Section 2(b) of the Mossel Bay Land Use Planning Bylaw, 2021, in order to allow twenty (20) vehicle carriageway crossing on Tolbos Crescent, to accommodate the proposed parking layout;
5.	Removal of Restrictive Title Deed Condition C(d) from Title Deed (T20343/2022) of Erf 5116, Mossel Bay in terms of Section 15(2)(f) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning (2021) to allow for the construction of the proposed building;

6. Removal of Restrictive Title Deed Condition C(d) from Title Deed (T20343/2022) of Erf 5117, Mossel Bay in terms of Section 15(2)(f) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning (2021) to allow for the construction of the proposed building; and
7. Removal of Restrictive Title Deed Condition B(d) from Title Deed (T2817/2022) of Erf 5118, Mossel Bay in terms of Section 15(2)(f) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning (2021) to allow for the construction of the proposed building.

PART G: BACKGROUND

Erven 5116, 5117 and 5118, Mossel Bay is located in Tolbos Crescent in the residential neighbourhood of Heiderand (Annexure A). The properties all measure 720m² in extent. Erven 5116 and 5117 is zoned "Single Residential Zone I" and Erf 5118, Mossel Bay is zoned "Business Zone II", limited to a car dealership, in terms of the Mossel Bay Municipality Zoning Scheme By-Law, 2021. Erven 5116 and 5117 is currently vacant and Erf 5118, Mossel Bay is currently developed and utilised as a motor dealership with an unlawful additional shop. The surrounding properties consists of predominantly residential land uses with Single Residential Zone I erven directly west and south of the property and a General Residential Zone III (Flats) property to the east of the property. North of the property is Louis Fourie Road with Business properties across the road.

On 30 November 2004, Mossel Bay Municipal Council approved the rezoning of Erf 5118, Mossel Bay from "Single Residential Zone" to "Local Business Zone" to allow for a motor showroom and selling of vehicles. Refer to Annexure I for the approval letter. Building plans for extensions to the existing building were subsequently approved on 23 November 2009. An application for the consolidation of Erven 5116 and 5117, Mossel Bay was approved by the Surveyor General's Office on 07 September 2009. This consolidated property (Erf 18983) was never registered and has since lapsed.

The Development Proposal entails the expansion of the existing building on Erf 5118 Mossel Bay to construct a new motor vehicle showroom and service centre on the consolidated property. A pre-application consultation was held on 22 March 2023 with the Mossel Bay Municipality. The minutes of this meeting is attached as Annexure J. The proposed consolidation is to enable effective use of land and improved functionality of the existing business. The proposed building will be a 3-storey building. The ground floor (±1223m²) will consist of a workshop reception, utility room, a fitment centre, 4x service bays, parking area, refuse room, kitchen and a workshop storeroom. The 1st floor (1040m²) will consist of the main entrance, reception, vehicle showroom, offices a kitchen, ablutions and parking bays. The 2nd floor (383m²) will consist of a showroom.

PART H: SUMMARY OF APPLICANTS MOTIVATION

The Applicant's motivation, attached as Annexure C, can be summarised as follows:

- The proposal is to expand and redevelop the existing building on Mossel Bay Erf 5118 to construct a new motor vehicle showroom and service centre on the consolidated property. The proposed structure encroaches the prescribed height restriction as well as the maximum allowed FAR and therefore applications are also made for permanent departures from these parameters.
- The proposed consolidation will result in the effective use of land and improved functionality of the existing business. The proposed building will be a 3-storey building. The ground floor (±1223m²) will consist of a workshop reception, utility room, a fitment centre, 4x service bays, parking area, refuse room, kitchen and a workshop storeroom. The 1st floor (1040m²) will consist of the main entrance, reception, vehicle showroom, offices a kitchen, ablutions and parking bays. The 2nd floor (383m²) will consist of a showroom.
- The design of the building is such that it contains a mono-pitched roof, with the higher portion of the building on the business side, and the lower portion of the building towards the western abutting 'residential area'. The purpose of the roof falling in one direction is to have a softened view starting at 12m above NGL adjacent to the Erf 16092 which is a large business / mixed-use building, and then dropping down to 6.5m above NGL on the residential side adjacent to Erf 5115 which consist of a residential building, to then fit into the residential area and lessen the visual impact.
- Access and egress to the newly created property will be obtained directly off Tolbos Crescent via a ramp to the 2nd floor which is directly accessed from the south-eastern corner of the property and then goes down to the 1st floor via an internal ramp from that exists directly to the street in the south-western corner of the property.
- Tolbos Crescent is a 2 – way traffic, public road owned and maintained by Mossel Bay Municipality. The existing access road does not need to be upgraded or widened for the purpose of the proposed development.
- The character of the immediate surrounding area is characterised predominantly by single residential towards the south and the west. Directly east of the application area is a mixed-use property (general residential & business) and across the road (Melkhout Street) towards the east characterised by a mixture of retail and commercial business land uses.

- The proposed application will not create a “new” land use in the area but is merely an expansion of the existing motor vehicle dealership, and the existing Heiderand Business Node. Seeing that this is an existing facility it is the considered opinion that the proposed expansion will be consistent with the existing character of the area. The proposal will also increase the functionality of the facility and contribute to the aesthetic improvement of the area, as well as along Louis Fourie Road.
- The application area is bordered by Louis Fourie Road, and north of Louis Fourie Road is the Mikeva Hyper wholesale hypermarket, and the Mountain View affordable housing development is located to the northwest of the application area. It is the considered opinion that the proposed expanded motor vehicle dealership on the application area is consistent with the surrounding business uses.
- Regardless of the 10m title deed building line along Louis Fourie Road, several of the properties to the west of the application area have buildings and outbuildings that encroach the 10m title deed building line. Hence the proposed title deed building line relaxation will be consistent with the established character of the area and also will not impact on any sight distances or any traffic flow in Louis Fourie Road.
- According to the Mossel Bay Municipality Spatial Development Framework (SDF), the application area is situated inside the urban edge of Mossel Bay and is suitable for urban development. The application area is located directly west of an area earmarked “Large Business Node”.
- The reason for the expansion of the existing facility is the increase in customer demand, to allow for an enhanced customer experience and mainly to allow for better functionality and improved facilities.
- The demand for vehicles in the dealership's market is growing, expansion is necessary to accommodate a larger inventory and serve a larger customer base. The current facility can only hold a limited number of vehicles and the owners recently started parking vehicles on their vacant land adjacent to the existing facility.
- The character of the area is evolving and linking up with the large business node to the east. The expansion of the existing facility will not lead to any additional land uses in the area. Having a motor vehicle dealership close to a residential area can bring about several benefits for both the community and the dealership itself.
- It will contribute to the overall economic growth by creating job opportunities (salespeople, mechanics, administrative staff, and other professionals) within close proximity of living spaces, thereby contributing to a positive local economic impact and less traveling costs for employees to access their places of employment.
- Several strategies to mitigate the potential impacts of the proposed facility in close proximity to the residential area to minimize its ‘negative impact’ were taken into consideration such as:
 - A 6.4m building line adjacent to the single residential property. Various noise reduction measures will be put in place, such as sound barriers, acoustic panels, and the strategic placement of the fitment centre (on the lower ground floor) to minimize the impact of vehicle-related noises on the nearby residents.
 - The design of the building was done in such a way as to flow into the single residential area (also requested by Mossel Bay Municipality during the pre-application consultation). The purpose of the roof design falling in one direction is to have a softened view, starting with a height of 12m on the side of Erf 16092 (which is a large mixed-use building) and then bringing it down to 6.5m on the residential Erf 5115 which is smaller building.
 - The provision of sufficient on-site parking facilities, as well as the scheduling of motor vehicle test drives outside of the peak traffic hours, will mitigate any potential traffic impacts / congestion.
 - No parking is provided on the Tolbos Crescent Street boundary. All parking will be on the top floor, within the proposed new, consolidated building.
 - The proposed new building was designed in such a way, that the higher portion of the building is to the east, where it abuts the existing business node, and the building lowers in height, as it nears the residential erven to the west of the consolidated property.
 - Use directional lighting to minimise spill will mitigate against any Excessive lighting from the showroom affecting the night environment. The owners will also install motion sensor lights to reduce unnecessary illumination during night times.
 - The motor vehicle dealership can coexist harmoniously with a residential area, fostering positive relationships and minimizing any potential negative impact on the community. The proposal will ensure urban renewal and urban revitalisation, which will contribute to the upliftment of the area.
- This expanded dealership requires a more extensive supply chain, involving suppliers of vehicles, parts, and services. This will stimulate growth in related industries, creating additional economic opportunities for suppliers and fostering a network of interconnected businesses.
- The proposed development will not impact the existing land use rights of any surrounding Property Owners in the area. The proposal will also improve traffic congestion currently experienced on site and they have implemented strategies to minimise pressure on the current road. Appropriate lighting will be used that does not cause light pollution for nearby properties and to minimize the impact on neighbouring properties. The proposal will not prevent any surrounding owner from exercising their legal land use rights.
- Allowing business use in close proximity to a residential area will increase security and safety in the area, as business sites are occupied during the daytime and residential during the night-time, thus increasing the level of surveillance and security in the area. The two vacant properties (Erven 5116, 5117) currently pose a security risk.

Vacant properties may attract transient individuals looking for a place to stay temporarily, and this can lead to issues such as unauthorised occupancy, increased foot traffic, and a higher likelihood of disturbances in the area.

PART I: ADVERTISEMENT

Methods of advertising				Date published		Closing date for comments				
Press	Y	N	N/A	19/01/2024		18/02/2024				
Gazette	Y	N	N/A							
Notices	Y	N	N/A	18/01/2024		18/02/2024				
Ward Councillor	Y	N	N/A	18/01/2024		18/02/2024				
Site notice	Y	N	N/A	18/01/2024		18/02/2024				
Community organisation(s)	Y	N	N/A							
Section 79	Y	N	N/A							
Public meeting	Y	N	N/A							
Third parties	Y	N	N/A							
Other	Y	N	If yes, specify	Section 79 Land Use Planning Committee - 18/01/2024						
Total objections				3		Total comments and petitions refused		2		
Valid petition(s) in support				Y	N	If yes, number of signatures		0		
Community organisation(s) response				Y	N	N/A	Ward councillor response	Y	N	N/A
Total letters of support				1						
Was public participation undertaken in accordance with Section 45- 49 of the Mossel Bay By-law on Municipal Land Use Planning								Y	N	

PART J: SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Heritage Mossel Bay (Annexure E)

- Rezoning - The Committee has no objection as the land use is in line with the adjacent land use of Erf 5118 and in keeping with the existing character of the immediate neighbourhood.
- Consolidation - The Committee has no objection thereto.
- Permanent Departure in order to increase the height - The Committee has no objection as the architectural design seeks to respect the building heights (mixed use building on Erf 16092) with a fall towards the much lower residential buildings on the opposite side. However, it is highly recommended for this condition to be formalised in a restrictive condition on the property.
- Permanent Departure, to allow twenty (20x) vehicle carriageway crossings on Tolbos Crescent, to accommodate the proposed parking layout - The Committee has no objection from a Heritage perspective, however, input from the residents of Tolbos Crescent needs to be obtained, as the increase in the traffic movement of traffic can pose a significant impact on their environment and safety.
- Removal of Restrictive Title Deed Conditions - The Committee has no objection.

LUPC (Annexure F)

- It is proposed that the Public Participation Process should include publication and serving of Notices in terms of Sections 45(2), 46(2) and 48(2)(a).
- That a Traffic Impact Assessment be strongly considered. The character of the area is residential but the future development of area suitable.

Objection and Petition submitted by H & R Elbrecht (Annexure G) – Please note that the objection was submitted late, however a request for intervener status was made.

- Application for intervener status in terms of section 57(3) of the Mossel Bay Municipality Land Use Planning By-Law for the following reasons:
 - Residential post boxes were removed out of the Heiderand area 6 years ago and all postal items must be collected inside the Post Office during working hours (08h00 – 17h00). The Post Office does not issue Notices for new post/packages to be collected. All our municipal accounts, letters and correspondence are sent via e-mail. During loadshedding the Post Office is closed.
 - The Notice was sent from Knysna on 18 January 2024 and only arrived at the Mossel Bay Post Office on 22 January 2024, which reduced the time for commenting with 4 days.
 - I was on vacation leave break outside of Mossel Bay area from 29 January 2024 until 11 February 2024 which resulted in time lost to respond to this application with comments.
 - My working hours during the month of January and February were erratic and most times I could only depart from work after 17h00 because my backup colleague was on leave and urgent maintenance done on one of the seafaring vessels.
- We have raised our concerns and objection with this application in previous letters addressed to the Town Planning Department of the Mossel Bay Municipality, and would like to reiterate our reasons:
 - Violating the Zoning Regulations and the Master Plan of the area, which are designed to preserve the character and identity of the community.
 - Disrupting the harmony and aesthetics of the neighbourhood, which is composed of single-family homes and low-rise apartments.
 - Increasing the traffic and noise levels, affecting the quality of life and safety of the residents and children.
 - Reduce the property values and tax revenues of the surrounding homes, as they would become less attractive and competitive in the market.
 - Heavy duty delivery vehicles pose a safety hazard to children in Tolbos Crescent.
 - The proposed building would require a large amount of land and resources, which could negatively impact the environment and the quality of life of the residents.
 - The proposed building would generate more traffic, noise, and pollution, which could pose safety and health risks for the people living nearby.
 - The proposed building would not comply with the zoning regulations and the architectural standards of the area, which could create legal and aesthetic problems.
 - There is already activity of sales happening on the current facility – they are also now selling clothes at the bottom of the current motor trading building – which have already increased the traffic into Tolbos crescent.
 - In September 2023, we the residents of Tolbos crescent also handed in a petition against an application for online alcohol sales, which also would have translated to a big disturbance to the peace and tranquillity in our area. (Please see attached Annexure 2).
 - The Planning Restrictions specifically active within our area ensure its' residential nature is maintained.

U Naiker (Annexure G) – Please note that the objection was submitted late, however a request for intervener status was made.

- Application for Intervener Status in terms of section 57(3) of the Mossel Bay Municipality Land Use Planning By-Law for the following reasons:
 - I am the homeowner of 10 Tolbos Crescent, Heiderand and are currently living Durban. Currently I have tenant staying in the house. I only learnt about the application of “Proposed Rezoning, Consolidation, Permanent Departures & Removal of Restrictive Title Deed Conditions: Mossel Bay Erven 51156, 5117 and 5118” over the weekend from my neighbours. The tenants haven’t notified me about this situation or of any letters that came for me.
- The reasons for the objections are the same reasons as submitted by H & R Elbrecht, as summarised above.

PART K: SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments	Recommendation		
			Positive	Negative	Comment
Mossel Bay Municipality: Electrotechnical Services	11/01/2024	No objection. Existing electrical network.	Positive	Negative	Comment
Mossel Bay Municipality: Roads and Stormwater	15/10/2024	In terms of COTO TMH 16, a TIA "shall be undertaken and submitted when the highest total additional hourly vehicular trip generation	Positive	Negative	Comment

		(including pass-bay and diverted trips) as a result of the application exceeds 50trips/hr." which appears to be the case as a result of the additions. It is therefore advised that a full TIA must be conducted and submitted for consideration. There is further concern w.r.t. the proposed ramp geometry that extends into the road reserve. This must be relooked at and the ramp retracted to fall within the erf boundary. Furthermore, the argument of the historical drop-off of vehicles by the carrier through the residential area does not justify that the action should continue. Alternative measures must be investigated as part of the TIA.			
Mossel Bay Municipality: Water and Sanitation	05/06/2024	Supported	Positive	Negative	Comment
Mossel Bay Municipality: Community Services	05/01/2024	No objection	Positive	Negative	Comment

PART L: REPLY TO COMMENTS

Heritage Mossel Bay

- The intention is not to deviate from the proposed plans and the Applicant accepts that the height limitation can be imposed as a condition of the rezoning approval, similar to the conditions imposed with the rezoning approval for Erf 5118, dated 30 November 2014.
- The application was duly advertised, and notifications was sent to all the affected landowners for their comments.

Internal Comment from Roads and Stormwater

- "UDS Africa" have been appointed to prepare a Traffic Impact Statement. The report is not yet available and will be provided as soon as it is available. (Kindly note that the Applicant submitted a Traffic Impact Statement, attached hereto as Annexure K)
- "Rudman & Visagie" Consulting Engineers have been appointed to prepare a Stormwater Management Plan. These plans and report are not yet available and will be provided as soon as it is available.

LUPC

- A Notice of the application was published in the 'Mossel Bay Advertiser' in the 19 January 2024 edition. A Site Notice was placed on site on 18 January 2024 on an accessible place on the erf for a period exceeding 30 days. Notices were sent to the surrounding Landowners (see attached proof of registered mail). A notification was also sent to the Ward Councillor.

Petition submitted by H & R Elbrecht and Letter from U Naiker

- Applicant agrees with the statement regarding the character of the area. The proposed facility is considered an upgrade of the existing facility, for a more functional and more aesthetically pleasing facility.
- The application was advertised, and notices were sent in line with the requirements of the Mossel Bay Municipal Planning By-Law and as per Mossel Bay Municipality instructions in the letter dated 03 January 2024. This only contained the postal details of the surrounding property owners.
- A Notice of the application was published in the 'Mossel Bay Advertiser' in the 19 January 2024 edition and on Facebook. A Site Notice was placed on site on 18 January 2023 on an accessible place on the erf for a period exceeding 30 days. Notices were sent to the surrounding Landowners. A notification was also sent to the Ward Councillor.

- The Petition is noted. 02 & 17 Tolbos Crescent signed petition does not comply with the requirements set out in Section 49 of the Mossel Bay Municipality By-Law on Municipal Land Use Planning.
- The proposal is for the legal expansion of an existing business, not for a new land use in the area. The Planning Legislation allows for Landowners to apply for additional land use rights and the Municipality must assess each application on a case-to-case basis.
- As mentioned in Par.16 (Page 27) of the Motivation Report in several strategies to mitigate the potential impacts of the proposed facility in close proximity to the residential area in order to minimise its 'negative impact' were taken into consideration with the design of the newly proposed building.
- The character of the area is evolving and linking up with the large business node to the east. It must again be highlighted that the expansion of the existing facility will not lead to any additional or new land uses in the area.
- The only Departure from the prescribed Development Parameters will be the departure from the height restriction.
- The newly proposed facility will be more functional than the current facility and increase the safety and functionality of the area as a whole. Should the Municipality deem it necessary to imposed further requirements to increase safety and functionality, this can be imposed as conditions of approval and will be adhered to.
- A traffic engineer has been appointed to investigate and address the traffic impact of the proposed facility and will be provided when available. The inputs from the traffic engineer, will further investigate the impact and provide additional proposals to increase the functionality of the proposed facility.
- We are of the opinion that a new modern building that is more aesthetically pleasing will in fact increase the value of the area.
- It must be noted that the existing business does not have any heavy motor vehicles, the vehicles being referred to is from the other business in Tolbossingel directly opposite the application area. The heavy motor vehicles, park in the road and often blocks the entire road. It must be noted that these vehicles are not linked with the current business and the proposed business will allow parking on site for all vehicles.
- Further down the street is another business being a car workshop that carry out mechanical work on vehicles from a residential property. These businesses activities must not be confused with the subject properties.
- The current motor vehicle showroom on Erf 5118 is a legal business and the Erf is zoned for business purposes. The other retail such as the clothes, has been addressed by the municipality and the operation will cease. This does not form part of the application at hand.
- There are no restrictions (title deed, SDF, or zoning scheme) that prohibit the landowner may not rezone the 2 vacant residential erven for business purposes. Erf 5118 is currently zoned for business purposes and the proposal is for the expansion of this existing business. No new land uses are proposed in the area, only an upgraded better functioning facility.
- The Applicant responded to the concerns raised, for the decision maker to consider when deciding on the application, but a further extended commenting period should not be granted as it will only further delay the application process and the applicant is the party suffering the consequences, even though advertising was done in accordance with the By-Law and municipal instructions.

PART M: MUNICIPAL ASSESSMENT OF COMMENTS

In terms of Section 50(5) of the Mossel Bay Municipality: By-law on Land Use Planning, the Municipality may refuse to accept late objections. It must however be noted that the Municipality has included the late objections in the Evaluation Report, due to the scale of the proposal and the reasons provided for the late submissions of the objections, but the Tribunal should duly note that the objections were submitted late. The application for Intervener Status is also noted and the Tribunal must consider it.

The Municipality concedes with the following statements made by both the Objectors and Applicant:

- The proposal does have the potential of disrupting the harmony and aesthetics of the neighbourhood, which is composed of single residential erven developed accordingly, apart from the block of flats, east of the subject property.
- There will be a substantial increasing the traffic flow, affecting the quality of life and safety of the residents and children.
- Heavy duty delivery vehicles will have an adverse impact on the functionality of the street as well as the established and existing residential land use character.
- The petition does not comply with the requirements set out in Section 49 of the Mossel Bay Municipality By-Law on Municipal Land Use Planning, 2021.
- The proposal is for the legal expansion of an existing business, not for a new land use in the area. The Planning Legislation allows for Landowners to apply for additional Land Use Rights and the Municipality must assess each application on a case-to-case basis.

PART N: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

Was the application processed correctly (if no, elaborate below):

Y

N

Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)	Y	N
<p><u>Application history</u></p> <p>Application history</p> <p>Marike Vreken Urban & Environmental Planners, on behalf of the property owner of Erven 5116, 5117 and 5118, Mossel Bay (RZT Zelpy 4236 (Pty) Ltd) submitted a Land Use Application to the Mossel Bay Municipality on 18 December 2023, for Rezoning, Consolidation, Permanent Departures and the Removal of Restrictive Title Deed Conditions, as stipulated in Part F of this Report.</p> <p>For the Public Participation Process, Notice was placed in the local newspaper, Notices were served on surrounding Property Owners by registered mail, a Site Notice was placed on site and the comments of the Section 79 Land Use Planning Committee and applicable Ward Councillor were also requested. The Applicant also placed a Notice on Facebook. The closing date for the submission of comments/objections was on 19 February 2024. Comments were received from the Section 79 Land Use Planning Committee which is attached hereto as Annexure F.</p> <p>There were 2 objections and petitions submitted after the 30-day closing date of the Public Participation Process. The Municipality accepted these objections and sent them to the Applicant and noted that they were late but must be considered in terms of Section 50(5) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning, 2021, which states that the Municipality may refuse to accept comments submitted after the closing date. The Objectors also requested for Intervenor Status. Due to the sensitive nature of the development and the reasons provided by the Objectors for submitting it late, the Municipality did not refuse these late comments, as long as the Tribunal members are duly informed that they were submitted after the closing date. The Applicant consequently submitted replies to all the objection and comments received.</p> <p>It must be noted that the application was scheduled to serve on the Tribunal, dated 04 December 2024, however, the Applicant submitted a request to amend the Land Use Application in terms of section 52 of the Mossel Bay Municipality's Land Use Planning By-Law, 2021 and the application was subsequently withdrawn from the Tribunal Agenda. Since the withdrawal of the application from the Agenda, there has been no Amendment of the Land Use Application submitted to the Municipality. The Municipality has also followed up on 29 July 2025 with no response from the Applicant to date (29 August 2025), hence the application is referred back to the Tribunal to take a decision. It is recommended that the Municipality not permit another withdrawal of the application once it has been placed on the Tribunal Agenda, due to the adherence of timeframes imposed by the Mossel Bay Municipality's Land Use Planning By-Law, 2021.</p> <p>The application is referred to the Eden Joint Municipal Planning Tribunal to make a decision on the subject Land Use Application as the proposal is not deemed to be in line with the Mossel Bay Municipal Spatial Development Framework which will be elaborated further in this Report. The extract of the SDF and Precinct Plan is attached hereto as Annexure L.</p>		
<p><u>(In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA)</u></p>		
<p>Spatial Justice: This principle aims to redress past spatial and other spatial imbalances through improved access to and use of land. Spatial Development Frameworks and Policies at all spheres of government must address the inclusion of persons and areas that were previously excluded, with an emphasis on informal settlement, former homeland areas and areas characterised by a widespread of poverty and deprivation. The proposed application submitted for the expansion of an existing business premises, that is not within a low-income area and therefore has no bearing on the principle of spatial justice.</p>		
<p>Principle of Spatial Sustainability: The development proposal is included in the urban area hence it contributes to the protection of agricultural land outside the urban edge as well as the effective use of existing services and social facilities. It is, however, believed that the proposed development will have a possible adverse impact on the character and quality of life of the existing residential neighbourhood which will not lead to the promotion and stimulation of the effective and equitable functioning of land markets which will result in unviable communities. The proposed development is thus not considered to contribute to the promotion of land development in locations that are sustainable. Care must however be taken that any development proposals also keep in line with the character of the area.</p>		
<p>Principle of efficiency: The property is located inside the urban edge which results in the optimal use of the existing resources and infrastructure. However, decision-making procedures must minimise negative financial, social, economic or environmental impacts. Although the proposal will have a positive financial impact on the developer, the development</p>		

may have a negative impact on the surrounding property owner's social standard of life. It should be cautioned not to minimise the rights and standard of life of the greater surrounding property owners for the benefit of one Property Owner.

Principle of Good Administration: A transparent Public Participation Process was carried out where adjoining neighbours and affected parties were provided an opportunity to provide comments. This allows for the Land Use Application to be processed and finalised as all necessary information is available to make an informed decision.

(In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

The application is consistent with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014).

(In)consistency with the IDP/Various levels of SDF's/Applicable Policies

The subject property falls within the Urban Edge as demarcated in the Mossel Bay Spatial Development Framework. The property is located just west of the identified business node, where increased densification and mixed land uses is supported. The property, however, does not make part of the business node and do not share the same accessibility as the erven identified within this node.

The following policies of the Spatial Development Framework were identified to be applicable to the Land Use Application:

- *Policy 4F(b): Encourage mixed-use development projects on main transport routes, nodes and corridors;* The proposal is a singular use, and although it is located along the main corridor it does not obtain direct access from the Corridor (Louis Fourie Road). It should also be noted that the properties are considered to fall just outside the identified node on the corner of Melkhout Street and Louis Fourie Road.
- *Policy 4G(b): Development in priority nodes should be promoted in accordance with the function of the node. Local Precinct Plans should be compiled to create a balance between the land uses within the node.* The proposal is not deemed to be a natural extension of the identified node and the proposal is not considered to be desirable for the prioritisation of the node.

The proposal is, thus, not deemed to be in line with the Mossel Bay Spatial Development Framework and it is believed that no satisfactory site-specific reasons were provided for the motivation of the proposed land use.

(In)consistency with guidelines prepared by the Provincial Minister

N/A

Impact on Municipal engineering services

According to the Applicant, municipal engineering services are already available on the site and the proposal will have a small to no significant influence on infrastructure services. The Applicant did submit an Engineering Services Statement with the proposal. The proposal was circulated internally to the relevant Infrastructure Services departments and all of the Departments provided positive comments and some recommendations.

Outcomes of investigations/applications i.t.o other legislation

Traffic Impact Statement, attached hereto as Annexure K.

Existing and proposed zoning comparisons and considerations

Existing Zoning	Proposed Zoning
Single Residential Zone I Primary use: Dwelling house or Dwelling house and second dwelling or Double dwelling house.	Business Zone II Primary use: Shop

The Mossel Bay Municipality: Zoning Scheme By-Law, 2021 states that the objective of Business Zone II properties is to provide for the retail sale of goods and services to the public. Thus, it is not the intention to serve just the immediate surrounding area but the general public on a broader scale. The Mossel Bay Municipality: Zoning Scheme By-Law, 2021 sets out a land use description of each land use and "shop" is described as follows:

"means property used for the retail sale of goods and services to the public, and –

- (a) *includes a retail concern where goods that are sold in the concern are manufactured or repaired, a funeral parlour, ancillary sale of alcoholic beverages, service trade and the sale of motor vehicles, flats above ground floor, fibre node container, rooftop base telecommunication station, open air motor vehicle display, offices; and*
- (b) *does not include a hotel, industry, motor repair garage, adult entertainment, adult services.”*

The Municipality is of the opinion that the development of the subject erven, due to its location, should be very limited in scale and nature and capable of integration into the adjacent residential neighbourhood, without adversely affecting the amenity of the residential neighbourhood. While mixed use development is encouraged, care must be taken not to compromise the existing residential character.

The desirability of the proposal

The scale and impact of the proposal on the surrounding residential land uses and character is of great concern. The proposed land use is deemed to be in contradiction with the existing land use pattern and the scale also deemed to be out of character. The fact that there is an existing car dealership on Erf 5118, Mossel Bay should not be construed as a precedent to increase the footprint thereof. The expansion of the existing car dealership is perceived to negatively impact the surrounding residential character. The direct access for parking along the street will not only have an impact on the streetscape, but also the sense of place of the existing residential character of the area.

Although it can be acknowledged that great care has gone into the design of the proposed development to scale down from the flats, east of the subject properties to the single residential properties to the west, it must be realised that the proposal will still have a great impact on the streetscape of Tolbos Street, as can be seen in the pictures, attached hereto as Annexure M. The existing flats already causes a “dead” streetscape, and the scale of the proposal will contribute to the aforementioned. It should also be noted that the building lines will fall away with the consolidation of the properties, resulting in a negative visual impact on the properties to the south of the subject properties. The access to this large motor vehicle showroom will be gained through low-order residential streets, which is not deemed to be sufficient in order to accommodate the potential traffic flow.

Access, Traffic Impact and Parking:

The Applicant submitted a Traffic Impact Statement, attached hereto as Annexure K, which draws the following conclusions and recommendations:

- a) The subject properties (Erven 5116, 5119 and 5118) are located on the southern side of Louis Fourie Road and the western side of Melkhout Street, Mossel Bay.
- b) There is an existing vehicle showroom on Erf 5118 (zoned Business Zone II). The proposed development will span across Erven 5116, 5117 and 5118, of which 5116 and 5117 are zoned residential and need to be rezoned. The development is proposed to replace the existing motor vehicle showroom (1149 m²) and will also include a vehicle fitment centre with a total floor area of 2646 m² (1497 m² expansion from existing showroom size).
- c) Traffic counts were performed on Friday, 31 May 2024 (06:00 – 09:00 and 15:30 – 18:30) and Saturday, 01 June 2024 (11:00 – 14:00), at the following intersections:
- Seder Street / Melkhout Street
 - Louis Fourie Road / Melkhout Street
 - Louis Fourie Road / Essenhout Street
 - Essenhout Street / Seder Street
- d) TMH17 was used to estimate the number of trips generated by the development. During the average anticipated peak hour, 60 trips are expected during the AM peak hour with 39 IN / 21 OUT, 66 trips in the PM peak hour with 33 IN / 33 OUT, and 67 during the Saturday peak hour with 31 IN / 36 OUT. This traffic includes the traffic generated by the existing showroom.
- e) A 3% annual growth per annum rate was used to project the traffic to 2029 to evaluate a 5- year future scenario.
- f) The intersections were analysed using SIDRA 9.1 and all intersections are expected to experience acceptable levels of service during a Friday AM, PM and Saturday Peak hour.
- g) The development will be accessed via Tolbos Crescent. Three accesses are proposed; a full access is proposed to enter and exit the ground floor and parking garage, adjacent to this access is an IN only ramp which leads to the first floor, and on the eastern side of the property, an OUT only ramp accesses Tolbos Crescent from the second floor. There is a ramp inside the building allowing movement from the first to the second floor.
- h) It should be noted the ramp extends into the road reserve which could affect sight distance and future NMT planning.
- i) It should also be noted that the vehicle transporter will need to deliver the new vehicles via the residential area which is not ideal. According to the client, the existing showroom operates similarly.
- j) It is anticipated that refuse collection will be kerbside.
- k) No additional infrastructure has been proposed for public transport or non-motorised transport.

l) According to the town planner, 32 parking bays are required and therefore provided.

The comments from the Department: Roads and Stormwater still have some great concern regarding the Traffic Statement submitted, which can be summarised as follows:

- In terms of COTO TMH 16, a TIA "shall be undertaken and submitted when the highest total additional hourly vehicular trip generation (including pass-bay and diverted trips) as a result of the application exceeds 50trips/hr." which appears to be the case as a result of the additions. It is therefore advised that a full TIA must be conducted and submitted for consideration.
- There is further concern with regards to the proposed ramp geometry that extends into the road reserve. This must be relooked at and the ramp retracted to fall within the erf boundary.
- Furthermore, the argument of the historical drop-off of vehicles by the carrier through the residential area does not justify that the action should continue. Alternative measures must be investigated as part of the TIA.

Thus, the potential traffic impacts the proposal will have on the area and Tolbos Street, specifically, cannot be accurately determined as the Traffic Impact Statement was deemed insufficient in order to evaluate the proposal. Thus, in terms of traffic there is no sufficient reason for the approval of the proposal or sufficient information for the positive evaluation of the proposal.

PART O: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights

The Title Deed Rights to impose a building line originated from the Provincial Roads Authority, but the entire neighbourhood is the beneficiaries of The Title Deed Conditions. The rights (a 10m building line), merely enforces a wider buffer between Louis Fourie Road and the erven along the northern boundary of Tolbos Crescent. Since most of the erven already encroach this Title Deed Building Line, there is no financial value for the beneficiaries of the rights. It is the considered opinion that there is no financial value associated with the restrictive title deed restrictions. The purpose of this condition is to prevent access directly from this road and restrict development in close proximity to the provincial road, should the road in future be widened, however, the distance from the edge of the road towards the road reserve boundary is ±33m.

It must however be noted that these restrictions were inherited from the subdivision when the township was established and to date, several precedents exist in the area.

The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal

The holder of the rights is 'The Administrator'. The Local Municipality (Mossel Bay Municipality) has taken over the role of the 'Administrator'. The Municipality has a Zoning Scheme in place used to regulate land use and Development Parameters, therefore there are no benefits for the holder of the rights. It must be noted that the distance from the edge of the road towards the road reserve boundary is ±33m and enforcing an additional 10m building line, is excessive, unless otherwise required by the road's authority for any specific purposes.

The social benefit of the restrictive condition remaining in place, and/or being removed/amended

There are no social benefits to maintaining this restrictive title deed condition in place. Unless the Road Authority can indicate why a setback of almost 50m is required.

Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights

Any Land Development Application on the property must still comply with the prescribed Development Parameters of the Zoning Scheme and deviation from these Parameters must be assessed in terms of a departure application, thus the removal of this condition will not completely remove all rights enjoyed by the beneficiary. The removal of the restrictive condition will have no influence on the public interest, as this will allow these members of the public to develop the vacant land.

PART P: SUMMARY OF EVALUATION

The proposal will provide business opportunities; however, it is deemed to be out of character with the surrounding area and access from the lower order residential street is a concern. The subject application is therefore considered to be undesirable in terms of the requirements of Section 65 of the Mossel Bay By-Law on Municipal Land Use Planning, 2021.

PART Q: DEPARTMENTAL COMMENTS

COMMENTS: MUNICIPAL MANAGER

No further comments

COMMENTS: DIRECTOR FINANCIAL SERVICES

No further comments

COMMENTS: DIRECTOR DEVELOPMENT AND PLANNING

No further comments

COMMENTS: DIRECTOR TECHNICAL SERVICES

No further comments

COMMENTS: DIRECTOR COMMUNITY SERVICES

No further comments

COMMENTS: DIRECTOR COMMUNITY SAFETY SERVICES

No further comments

COMMENTS: DIRECTOR CORPORATE SERVICES

No further comments

COMMENTS: LEGAL SERVICES

No further comments

PART R: RECOMMENDATION

1. That the Petitions for Intervener Status, **be accepted and approved** by the Eden Joint Municipal Tribunal in terms of Section 57(3) of the Mossel Bay Municipality's Land Use Planning By-Law, 2021.
2. That the application for Rezoning of Erven 5116 & 5117, Mossel Bay from Single Residential Zone I to Business Zone II, in terms of Section 15(2)(a) of the Mossel Bay Municipality's Land Use Planning By-Law, 2021, **be refused** in terms of Section 60 of the said By-Law.
3. That the application for Consolidation of Erven 5116, 5117 & 5118, Mossel Bay to create a property measuring 2160m², in terms of Section 15(2)(e) of the Mossel Bay Municipality's Land Use Planning By-Law, 2021, **be refused** in terms of Section 60 of the said By-Law.
4. That the application for Permanent Departure for the relaxation of the prescribed height restriction from 9m to 12m, in terms of Section 2(b) of the Mossel Bay Land Use Planning By-Law, **be refused** in terms of Section 60 of the said By-Law'.
5. Permanent Departure in terms of Section 2(b) of the Mossel Bay Land Use Planning By-Law, 2021, in order to allow twenty (20) vehicle carriageway crossing on Tolbos Crescent, to accommodate the proposed parking layout, **be refused in** terms of Section 60 of the said By-Law.
6. That the application for Removal of Restrictive Title Deed Condition C(d) from Title Deed (T20343/2022) of Erf 5116, Mossel Bay in terms of Section 15(2)(f) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning (2021) to allow for the construction of the proposed building, **be refused** in terms of Section 60 of the said By-Law.
7. That the application for Removal of Restrictive Title Deed Condition C(d) from Title Deed (T20343/2022) of Erf 5117, Mossel Bay in terms of Section 15(2)(f) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning (2021) to allow for the construction of the proposed building, **be refused** in terms of Section 60 of the said By-Law; and
8. That the application for Removal of Restrictive Title Deed Condition B(d) from Title Deed (T2817/2022) of Erf 5118, Mossel Bay in terms of Section 15(2)(f) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning (2021) to allow for the construction of the proposed building, **be refused** in terms of Section 60 of the said By-Law.

PART S: REASONS FOR RECOMMENDATION

1. The access to this large motor vehicle showroom will be gained through low-order residential streets, which without a Traffic Impact Assessment, cannot be sufficiently evaluated in order to determine the potential traffic

flow and impact of the proposal. The large delivery vehicles will have a potential adverse impact on the functionality of the lower-order streets as well as the established and existing residential land use character. The potential traffic impact the proposal will have on the area and Tolbos Street, specifically, cannot be accurately determined as the Traffic Impact Statement was deemed insufficient in order to evaluate the proposal.

2. The proposal is not deemed to be in line with the Mossel Bay Municipal Spatial Development Framework and no satisfactory site-specific reasons were provided for the motivation of the proposed land use. The properties fall just outside the identified node on the corner of Melkhout Street and Louis Fourie Road. All the businesses, except for Erf 5118, Mossel Bay, that developed along the identified corridor gains access from Melkhout Street. With the rezoning of Erf 5127, Mossel Bay a condition of approval was added to gain access from Melkhout Street and Erf 5118, Mossel Bay was rezoned with strict conditions of approval specifically to prevent extension/expansion of the business due to the potential to become a nuisance to surrounding single residential properties. The proposal is not deemed to be a natural extension of the identified node and the proposal is not considered to be desirable for the prioritisation of the node.
3. The proposed development will potentially have an adverse impact on the character and quality of life of the existing residential neighbourhood which will not lead to the promotion and stimulation of the effective and equitable functioning of land markets which will result in unviable communities. The proposed development is thus not considered to contribute to the promotion of land development in locations that are sustainable.
4. Although a design was proposed to consider the surroundings it is deemed to be insufficient since the scale is out of place compared to the single residential properties and considering the consolidation will lead to no building lines between the current property boundaries. Care must be taken that any development proposals also keep in line with the character of the area. The number of mitigating measures proposed by the applicant only highlights the amount of effort required for the proposal that does not fit in with the surroundings.
5. The proposal does have the potential of disrupting the harmony and residential aesthetics of the neighbourhood, which mainly composes of single residential erven, developed accordingly.
6. There was no indication or comments received from the Western Cape Government: Department of Infrastructure, whom is the custodian and owner of Louis Fourie Road, in support of the removal of restrictive conditions.

PART T: ANNEXURES

- Annexure A: Locality plan;
- Annexure B: Site Development Plan;
- Annexure C: Motivational Report;
- Annexure D: Conveyancer Certificate;
- Annexure E: Comments Heritage Mossel Bay;
- Annexure F: Comments LUPC;
- Annexure G: Objections;
- Annexure H: Reply to comments and objections;
- Annexure I: Previous approval;
- Annexure J: Pre-Application meeting minutes;
- Annexure K: Traffic Impact Assessment.
- Annexure L: SDF Extract.
- Annexure M: Pictures taken in Tolbos Street.

PART U: SIGNATURES

Author

Registered planner name:



SACPLAN Registration Number:

Date: 4 September 2025

Manager (Town Planning)

Registered planner name: Jacobus Izak Roux



SACPLAN Registration Number: A/05/2007

Date: 4 September 2025

Director: Planning and Integrated Services

Carl Venter



SACPLAN Registration Number: A/1152/1999

Date: 9 September 2025

Decision maker: Eden Joint Municipal Planning Tribunal

APPROVED

APPROVED
CONDITIONALLY

APPROVED IN PART

REFUSED

Date: _____



**LAND USE PLANNING REPORT
PT37-10/2025**

**APPLICATION FOR SUBDIVISION, CLOSURE OF A PUBLIC PLACE, PERMANENT
DEPARTURE AND EXEMPTION: ERVEN 6763, 16463 AND 16464, DANA BAY, MOSSSEL BAY**

Reference number	15/4/16/1/2; 15/4/16/1/11; 15/4/16/1/4/1; 15/4/16/1/4 C 15615453 App 64-05/2025	Application submission date	02/05/2025	Date report finalised	28/08/2025
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PART A: AUTHOR DETAILS

First name(s)	Raimo
Surname	Fernandez
Job Title	Town Planner
SACPLAN registration number	A/2864/2019
Directorate/Department	Planning and Economic Development
Contact details	044 606 5012

PART B: APPLICANT DETAILS

First name(s)	Deon			
Surname	Nel			
Company Name	Nel & De Kock Town and Regional Planners			
SACPLAN registration number	A/520/1987	Is the applicant authorised to submit this application	Y	N
Registered owner(s)	Leon & Johanna Willemina Viviers			

PART C: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Erven 6763, 16463 & 16464, Mossel Bay					
Physical address	E. Grata Street, Dana Bay (Annexure A).	Town/City	Dana Bay, Mossel Bay			
Current zoning	<ul style="list-style-type: none"> ➤ Erf 16463: Single Residential Zone I ➤ Erf 16464: Single Residential Zone I ➤ Erf 6763: Open Space Zone I (Public Open Space) 	Extent (m ² /ha)	16463: 773m ² ; 16464: 750m ² ; 6763: 2.13ha	Are there existing buildings on the property?	Y	N
Applicable zoning scheme	Mossel Bay Municipality: Zoning Scheme By-Law, 2021					
Current land use	<ul style="list-style-type: none"> ➤ Erf 16463: Dwelling house ➤ Erf 16464: Vacant ➤ Erf 6763: Vacant public open space (with a portion of Erf 16463, Mossel Bay encroaching on the public open space) 	Title Deed number & date	<ul style="list-style-type: none"> ➤ Erf 16463: T14835/017 ➤ Erf 16464: T48795/2018 ➤ Erf 6763: T538444/92 			

Any restrictive title conditions applicable	Y	N	If Yes, list condition number(s)	
Any third party conditions applicable?	Y	N	If Yes, specify	
Any unauthorised land use/building work	Y	N	If Yes, specify	Encroachments of Erf 16463, Mossel Bay over the erf boundary onto Erven 16464 & 6763, Mossel Bay.

PART D: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

Has pre-application consultation been undertaken?	Y	N	If yes, provide a brief summary of the outcomes below.
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No pre-application consultation meeting was required; however the following feedback were provided on the pre-application which was submitted:

- Your proposal was discussed by the Town Planning Section of the Municipality on the 4th of October 2024 and based on the available information it was decided that a Pre-application Consultation is not required in terms of Section 37 of the Mossel Bay Municipality By-law on Municipal Land Use Planning, 2021.
- You may continue to submit the formal Land Use Planning Application.
- Due to the nature of land use applications, it is advised to appoint a private Town Planning Consultant to assist with compiling the Land Use Application.

PART E: LIST OF APPLICATIONS (TICK APPLICABLE)

Rezoning	Permanent departure	Temporary departure	Subdivision
Extension of the validity period of an approval	Approval of an overlay zone	Consolidation	Removal, suspension or amendment of restrictive conditions
Permissions in terms of the zoning scheme	Amendment, deletion or imposition of conditions in respect of existing approval	Amendment or cancellation of an approved subdivision plan	Permission in terms of a condition of approval
Determination of zoning	Closure of public place	Consent use	Occasional use
Disestablish a homeowner's association	Rectify failure by homeowner's association to meet its obligations	Permission for the reconstruction of an existing building that constitutes a non-conforming use	

PART F: APPLICATION DESCRIPTION

Application for the following:

- The Subdivision of Erf 6763, Mossel Bay in terms of Section 15(2)(d) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning, 2021 into:
 - Portion A (± 57m²); and
 - Remainder Erf 6763 (± 2.1257ha).
- The Closure of a portion of a Public Place in terms of Section 15(2)(l) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning, 2021, namely Portion A (a ±57m² Portion of Erf 6763, Mossel Bay).
- The permanent Departure in terms of Section 15(2)(b) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning, 2021 for the relaxation of the Northern side building line from 2m to 0m to for a building line relaxation along boundary b, a, d, c, f, e for the proposed newly created Erf 23727 from 2.0m to 0.0m for an existing deck.

Exemptions: It should be noted that the Applicant also requested the following exemptions in terms of Section 24 of the said By-law:

- Consolidation of unregistered Erf 23725 (closed public place) with Erf 16463 [sec 24(1)(d)]; and
- Subdivision of unregistered Erf 23726 (Fig. D, e, f c, D - as shown on Plan No. MB/DH/201-2) and Consolidation of unregistered Erf 23726 with Erf 16463 (minor amendment of common boundaries) [sec 24(1)(c)].

Once the consolidated property, if approved, is registered in the Deeds Office the deemed zoning of the closed Public Place portion will be "Single Residential Zone I" in terms of section 14 of the Mossel Bay Municipality: Zoning Scheme By-Law, 2021.

PART G: BACKGROUND

Following an application for the alienation of a portion of a Public Place, Council resolved, in terms of Council Resolution E1186-07/2024, that a portion of Erf 6763, Mossel Bay, may be alienated and sold to the property owners of Erf 16463, Mossel Bay. The Council Resolution is attached hereto as Annexure I.

Erven 6763, 16463 and 16464, Mossel Bay, is located in E. Grata Street, as indicated on the attached Locality Plan (Annexure A). Erven 16463 and 16464 are zoned "Single Residential Zone I" and Erf 6763, Mossel Bay is zoned "Open Space Zone I", in terms of the Mossel Bay Municipality Zoning Scheme By-Law, 2021. The surrounding area is categorised by "Single Residential Zone I" erven.

PART H: SUMMARY OF APPLICANTS MOTIVATION

- The Owners of Erven 16463 and 16464 bought the properties in 2017 with the swimming pool, deck and wendy house already constructed on the property. The Owners submitted an application to Mossel Bay Municipality to acquire a portion of Erf 6763 in order to rectify the encroachments of the aforementioned structures. The original proposal provided for the alienation of $\pm 108\text{m}^2$, but Council only approved the alienation of the portion of the swimming pool and deck area. In light thereof, Council Resolution was amended to make provision for the alienation of $\pm 57.4\text{m}^2$ of Erf 6763 as set out in the attached letter dd. 29 July 2024 by Mossel Bay Municipality.
- The reason for this application is to enable the Owners to rectify historic encroachments of a swimming pool and deck built on their property by previous owners.
- As stated above, the property is a developed erf situated within the urban edge with no sensitive vegetation. Therefore, bearing in mind that approval of this application will not lead to any additional construction, but merely the rectification of existing structures will the approval hereof not negatively affect any sensitivities.
- The property relevant to this application is situated within the urban edge of Mossel Bay. Therefore, this application is in line with this principle of sustainability as the subject property is within the fiscal, institutional and administrative means of the relevant authority.
- This application is privately funded and does not hold any future costs to the Municipality with regard to infrastructure provision or social services.
- This application entails a developed erf situated within an existing neighbourhood. Therefore, this application is in line with this principle as it will result in the rectification of existing encroachments which will satisfy the needs of the current owners which will contribute to the limitation of urban sprawl as their wishes can be accommodated on their property and they will not have to buy elsewhere.
- Approval of this application will contribute to the viability of the property for the Owners. Therefore, this application is in line with this principle of sustainability.
- Approval of this application is in line with this principle of efficiency as the application entails an existing erf currently serviced by the Municipality. Therefore, approval of this application will optimise the use of existing resources and infrastructure.
- Mossel Bay Municipality's Spatial Development Framework, 2022, does not specifically delineate the area where Erf 16463 is situated, but it is shown as residential (urban area) in this document. The document further states that building discourage encroachments into the said areas. Unfortunately, the previous Owner of the property constructed the swimming pool and deck over the erf boundaries and the proposal to Council to acquire the portion on which the structures encroach was approved and a Deed of Sale has been signed by the Owner. Therefore, this approval makes provision in order to rectify the encroachments which was a result of the previous Owner, while no new or additional construction is proposed. Bearing in mind that this application does not propose an alteration of the Land Use of the subject property, but merely the rectification of existing encroachments, no further elaboration will be made in this regard.
- The property forms part of an existing well established residential neighbourhood of Mossel Bay, i.e. Dana Bay. This application which proposes the rectification of the encroachment of existing structures will not alter the land use which can currently be experienced. Approval of this application will not alter the character of the environment as the structures, i.e. swimming pool and deck which is the subject of this application are normally associated with dwelling houses which is the predominant use in the area. Therefore, no further elaboration will be made in this regard.
- The property relevant to this application is currently serviced by the Municipality. Approval of this application will formalise existing structures currently encroaching over the property's cadastral boundary. Therefore, approval

of this application will not require any additional services from the Municipality as no new construction is planned at this stage requiring additional services.

- On strength of the rationalisation followed in this Report, it is evident that approval of this application will not only result in the optimal utilisation of unutilised land which is not required for municipal services but will also legalise existing building contraventions. Therefore, approval of this application will allow the Municipality to alienate a portion of Erf 6763 which will result in a financial gain for the Municipality and permit the Owner to submit building plans for the structures encroaching over the property's cadastral boundaries. This approval will not have an adverse impact on neighbouring Property Owners and will result in a mutually advantageous outcome for all parties involved.

PART I: ADVERTISEMENT

Methods of advertising				Date published			Closing date for comments			
Press	Y	N	N/A	30 May 2025			02 July 2025			
Gazette	Y	N	N/A							
Notices	Y	N	N/A	30 May 2025			02 July 2025			
Ward Councillor	Y	N	N/A	30 May 2025			02 July 2025			
Site notice	Y	N	N/A	29 May 2025			02 July 2025			
Community organisation(s)	Y	N	N/A							
Public meeting	Y	N	N/A							
Section 79 LUPC	Y	N	N/A	02 June 2025			02 July 2025			
Third parties	Y	N	N/A							
Other	Y	N	If yes, specify	N/A						
Total valid comments				1						
Valid petition(s) in support				Y	N	If yes, number of signatures	0			
Community organisation(s) response				Y	N	N/A	Ward councillor response	Y	N	N/A
Total letters of support				0						
Was public participation undertaken in accordance with Section 45- 49 of the Mossel Bay By-law on Municipal Land Use Planning								Y	N	

PART J: SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

The following comments were obtained:

Section 79 Land Use Planning Committee:

The Land Use Planning Committee provided the following comment: "Committee of Council, reserves its right to lodge an Appeal against the decision made on this application based on the outcome of the Public Participation Process and comments received thereon." (Attached as Annexure E).

PART K: SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date Received	Summary of comments	Recommendation		
Mossel Bay Municipality: Electrotechnical	2025-05-22	No comment.	Positive	Negative	Comment
Mossel Bay Municipality: Community Services	2025-05-22	No objection.	Positive	Negative	Comment

Mossel Bay Municipality: Environmental Management	2025-05-21	Application to buy a section of the greenbelt is not supported.	Positive	Negative	Comment
Mossel Bay Municipality: Street and Stormwater	2025-06-02	No comments.	Positive	Negative	Comment
Mossel Bay Municipality: Water and Sanitation	2025-05-30	<ul style="list-style-type: none"> Not supported. There are structures erected over the municipal sewer pipeline. The municipal sewer pipelines must be re-routed at the applicant's cost. 	Positive	Negative	Comment
Mossel Bay Municipality: Spatial Planning Section	2025-05-21	Comments received attached as Annexure D.	Positive	Negative	Comment

PART L: REPLY TO COMMENTS

The Applicant acknowledges the comments from the LUPC's right to Appeal based on the outcome of this decision. Therefore, the Applicant only responded to the comments from the Spatial Planning Section, Environmental Management Section and the Water and Sanitation department of the Municipality, which can be summarised as follow. See attached copy of the Applicant's response to the comments received: Annexure F.

Water and Sanitation

- The Municipality is entitled to impose a condition of approval which will compel the owner to re-route the sewer pipelines at his own cost. Therefore, this matter can be resolved.

Environmental Management:

- The application is based on the outcome of Council Resolution E186-07/2024 which states that the portion is not required for municipal services and that it may be alienated to the owner of Erf 16463. In light thereof, and the fact that the Environmental Management Department gave no reasons for their opposition, no further elaboration will be made in this regard.

Spatial Planning:

- The alienation of a portion of Erf 6763, Mossel Bay, was supported by Council which therefore indicates that should this portion be consolidated with Erf 16463 it will not form part of a Public Open Space which will therefore be in line with the PSDF.
- The portion of Erf 6763 proposed to be subdivided is in extent 57m². The abutting remainder of Erf 6763 (Public Open Space) will be in extent 2.1257ha. This suggests that the portion in question is only 0.27% of the Open Space System constituting Erf 6763. Erf 6763 further connects with Erven 7882 and 14797 which is 7.44ha and 4.56ha respectively in extent. It implies that a total area of 14.1257ha is available for open space purposes.
- In order to assess the impact of the proposed loss of Open Space, it is necessary to consider the intended purpose of the Open Space and whether the proposal would defeat that purpose. Open Spaces serve primarily as an area for passive and/or active recreation and contributes to the spatial and aesthetic quality of the surrounding environment. The total area of the open spaces adjoining the subject of this application (57m²), measuring approximately 14.1257ha, function as a natural drainage area and is covered with trees and shrubs. Its primary role is that of a passive open space, contributing to the sense of spaciousness and natural character of the environment, rather than serving any active recreational function.
- Given this context, the proposed reduction of 57m² is negligible and will not compromise the broader purpose of the open space. Consequently, it cannot reasonably be argued that the loss of such a small portion, viz. 0.04% would defeat the overall objective of the open space in question.
- As outlined in the Motivation Report, the existing encroachments onto Erf 6763 were caused by the previous Owner. The current Owner is simply seeking to regularise these encroachments through this application. Since the encroachments already exist, the matter is highly site-specific, and there are no additional site-related considerations to elaborate on. One of the main reasons the current Owner purchased the property was the presence of the swimming pool and deck, which they wish to retain. Rather than removing the encroachments, the Owner intends to rectify the matter by purchasing the affected portion of Erf 6763 from the Municipality and consolidating it with their property. This proposal was discussed and approved at a Council Meeting, where it was resolved that the owner may proceed with the purchase of the specific portion.
- As noted above, the encroachments in question are site-specific and have been appropriately motivated. Generally, land surveyors are permitted a deviation of up to 10% from the approved layout. In this case, the

portion of land proposed for alienation constitutes only 0.27% of Erf 6763 and 7.37% of Erf 16463—both well within the acceptable deviation threshold. Therefore, approval of this application would not result in any significant departure from the Spatial Development Framework (SDF) and would serve to regularize unauthorised structures constructed by the previous Owner of the property.

- As stated above, the encroachments are site specific and will not be in conflict of the purpose of the relevant designation of land as it will only result in a loss of 0.04% of the Open Space system it forms part of.

PART M: MUNICIPAL ASSESSMENT OF COMMENTS

- The Applicant provided some additional motivation to address the comments from the Spatial Planning Section of the Municipality.
- The Applicant accepted that the sewer pipeline will be rerouted at the Owner's expense.
- The Applicant motivates that the Remainder of Erf 6763, Mossel Bay is still sufficient for the operation of the Open Space System, however, fails to recognise the cumulative impact encroachments of residents of Dana Bay have on the system. Therefore, it is proposed to add a condition of approval, if approved that an undeveloped portion of Erf 16464, Mossel Bay equal to the extent of the encroachment portion must remain undeveloped as part of the Open Space Network by means of registering a Servitude.
- The fact that the encroachments were done by previous Property Owners, should not be regarded as justification for the approval of a Land Use Application. There is also an onus placed on a prospective Property Owner to ensure that structures are approved on building plans and that the Land Use is in line with the applicable Zoning Scheme By-Law.
- Although the scale/nature of the proposal is regarded as having a minimal impact, the unknown cumulative impact of encroachments onto the Dana Bay open space system will always remain a concern, therefore care should be taken not to set a precedent in this regard. Each proposal must however be carefully assessed on its own merits. The historical nature of this encroachment cannot be ignored. The encroachment has little to no impact on the surrounding property owners and residents of Dana Bay and must be considered as specific to the site when evaluating the proposal.

PART N: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

Was the application processed correctly (if no, elaborate below):	Y	N
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)	Y	N

Application history

On 25 July 2025, Council resolved under Council Resolution number E1186-07/2024, that a portion of Erf 6763, Mossel Bay, may be alienated to the adjacent Property Owner (Annexure I). In order to give effect to the Council Resolution, the required Land Use Planning application process needed to be followed. Consequently, the relevant Land Use Application was submitted in order to obtain the relevant Land Use Rights for the development of a portion of Erf 6763, Mossel Bay.

Nel and de Kock Town and Regional Planners, on behalf of the property owners of Erven 16463 and 16464, Mossel Bay (L and JW Viviers) submitted a Land Use Application to the Mossel Bay Municipality on 02 May 2025 for a Closure of a portion of a Public Place, Departure and Subdivision, as stipulated in Part F of this Report. The application also entails the request for the following Exemptions in terms of Section 24 of the Mossel Bay By-Law on Municipal Land Use Planning, 2021:

- Consolidation of unregistered Erf 23725 with Erf 16463 Mossel Bay; and
- Subdivision of unregistered Erf 23726 Mossel Bay (Fig. D, e, f c, D - as shown on Plan No. MB/DH/201-2) and Consolidation of unregistered Erf 23726 with Erf 16463, Mossel Bay.

For the Public Participation Process, a Notice of the proposal was published in the Mossel Bay Advertiser and Municipality's website and Notices were served on surrounding Property Owners by registered mail, a Site Notice was placed on site and the comments of the Section 79 Land Use Planning Committee and applicable Ward Councillor were also requested. The closing date for the submission of comments/objections, was on 02 July 2025.

(In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA)

22. (1) *A Municipal Planning Tribunal or any other authority required or mandated to make a land development decision in terms of this Act or any other law relating to land development, may not make a decision which is inconsistent with a municipal spatial development framework.*
- (2) *Subject to Section 42, a Municipal Planning Tribunal or any other authority required or mandated to make a land development decision, may depart from the provisions of a Municipal Spatial Development*

Framework only if site-specific circumstances justify a departure from the provisions of such Municipal Spatial Development Framework.

It was only when the application was circulated internally that it was identified by the Municipality's Spatial Planning Section that the proposal is considered to be in conflict with the SDF. The Applicant addressed the comments that can be viewed in Annexure F.

(In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

LUPA:

Compliance or consistency with, and deviation from, spatial development frameworks or structure plans

19. (1) *If a Spatial Development Framework or structure plan specifically provides for the utilisation or development of land as proposed in a land use application or land development application, the proposed utilisation or development is regarded as complying with that Spatial Development Framework or Structure Plan.*
- (2) *If a Spatial Development Framework or Structure Plan does not specifically provide for the utilisation or development of land as proposed in a Land Use Application or a Land Development Application, but the proposed utilisation or development is not in conflict with the purpose of the relevant designation in the Spatial Development Framework or Structure Plan, the utilisation or development is regarded as being consistent with that Spatial Development Framework or Structure Plan.*
- (3) *If the proposed utilisation or development of land in a Land Use Application or a Land Development Application does not comply with and is not consistent with the relevant designation for the utilisation of land in an applicable Spatial Development Framework or Structure Plan, the proposed utilisation or development deviates from that Spatial Development Framework or Structure Plan.*

(In)consistency with the IDP/Various levels of SDF's/Applicable policies

Southern Cape Regional Spatial Implementation Framework

KEY REGIONAL FINDINGS FROM THE RESOURCES ASSESSMENT:

Biodiversity of the region is under threat from urban and agricultural activities, a changing climate, increased fire risks, and flooding events. Of particular concern is the fact that large parts of Mossel Bay are not meeting Biodiversity targets as set out in the Western Cape Biodiversity Spatial Plan. Pressures between concerns regarding natural environment preservation versus the need to develop economic infrastructure exist (especially roads, electricity supply, water, rail), as an increasingly connected and integrated economy becomes important to the successful functioning of the regional economy.

GR VR1) ENVIRONMENTAL REHABILITATION, ENHANCEMENT & RESILIENCE POLICY:

Rehabilitate, restore, and enhance the quality of the natural environment (biodiversity, wetlands, rivers, lakes, air), and protect the natural environment and assets of the region from invasive plant species, unsustainable urban development and inappropriate agricultural, commercial and industrial activities and mitigate against the risks and disasters associated with climate change.

The loss of open spaces contribute to the biodiversity target not being met and the proposal on Erf 6763 Mossel Bay, is not deemed to be aligned to the RSIF.

Municipal Spatial Development Framework, 2022

VISION DIRECTIVES:

The mandate to Municipalities is to be bold in managing growth to rectify spatial injustice of the past as well as to conserve its natural resources with a long-term vision, amidst the demands of the human settlements and economic growth.

SPATIAL DEVELOPMENT VISION:

The spatial development vision is a response to the IDP vision, trends, challenges, opportunities and objectives to: Achieve a sustainable, integrated and compact city in a sustainable natural and rural environment with adequate resources.

SPATIAL STRATEGIES AND SUPPORT POLICIES:

Seven strategies are formulated to support the spatial planning approach and spatial drivers to direct and manage development in the Greater Mossel Bay area and the urban environment. Each strategy is supported by a set of Policies and Policy Guidelines to base decisions on and on which actions can be taken and budgeted for.

STRATEGY 1:

Conserve and manage the natural environment in balance with the demands from urban growth and agricultural use.

POLICY 1A:

Manage and preserve the mountains, natural vegetation, streams and rivers in a manner which protects the natural ecosystems.

STRATEGY 4:

Manage urban growth and urban restructuring to establish an urban form able to serve current and future Mossel Bay community needs.

Policy 4C:

Creation of an Open Space/Conservation Network.

Policy Guidelines:

- a) The establishment of a realistic, sustainable conservation network should be prioritised.
- b) Existing Conservation Areas, Estuaries, Rivers and sustainable existing biodiversity-sensitive open space areas should be reserved to form part of an Open Space Network.
- c) The Open Space Network should contribute towards conservation, recreation and form a core component of the urban form.
- d) Strategies to combat illegal dumping and invasion by squatters of sustainable open spaces should be developed.

THE URBAN AND SETTLEMENT FORM AND FUNCTION:

Within the goals of densification and a compact city, the urban form of Mossel Bay has to be strengthened with mixed-use nodes and corridors to stimulate and densify growth. The proposed Open Space Network and Urban Greening should be used to ensure the impact on sense of place is minimised within the urban environment.

URBAN OPEN SPACE NETWORK:

The Urban Open Space Network is established to ensure the sensitive rivers, estuaries and coastal zone is protected. The Urban Open Space Network will facilitate urban conservation which will link into the rural space. Encroachment into the network can only be considered in exceptional cases. As cities grow and the people in cities increase, many more people have a significantly reduced personal experience with and thus awareness of nature (Soga et al, 2015). This “extinction of experience” may have significant consequences for human health and conservation in future. The Network must be developed as a functional space within the urban environment to ensure recreational and conservation value for future generations.

Dana Bay is laid out in a conventional curvilinear “bunny ears” street network, designed to minimise congestion from private motor vehicles. A positive development in Layout Planning in the 1970s was the beginning of a move away from canalising or piping watercourses and to leave them as open space corridors as can be seen in Dana Bay.

The Dana Bay area is bordered or adjacent to the coastal zone and open space network. **Encroachments onto the open space network is not permitted** except for limited infrastructure provision. Building plan approval for buildings on erven adjacent to the coast and open space network must **discourage encroaching** into the said areas. The **Open Space Network in Dana Bay is an asset to the community and must be conserved for future generation.**

Site specific circumstances were not motivated for in relation to Erf 6763 and motivation of the application is based on the existing encroachment and no consideration was made to the removal of the encroaching structures and rehabilitation of the Open Space. Taking into consideration the Vision, Spatial Strategies and Support Policies of the SDF, 2022 as well as the specific mention of encroachments that is not permitted onto the Dana Bay Open Space Network indicates that the *proposed Subdivision of Erf 6763 Mossel Bay and Closure of a Public Open Space is not consistent with the Spatial Development Framework 2022 and site-specific circumstances was not addressed to justify a departure from the provisions of the SDF; therefore, the proposal cannot be supported by Spatial Planning Section. See SPLUMA Section 22 and LUPA Section 19.*

(In)consistency with guidelines prepared by the Provincial Minister

Provincial Spatial Development Framework (PSDF):

The Western Cape Provincial Spatial Development Framework, (PSDF) recognises the Western Cape's natural capital, varied scenic and cultural resources which are the attractions that makes the WC the country's premiere tourism destination. Several towns in the WC are heavily reliant on the tourism market for economic sustainability. The PSDF recognises this fact and the need for natural resources to be used and enjoyed by many tourists/residents in the area. Notwithstanding, the PSDF also emphasises the importance to conserve, protect and strengthen the sense of place of important natural, cultural and productive landscapes, artefacts and buildings. The proposed use on Erf 6763 Mossel Bay, is, thus, deemed to be inconsistent with the PSDF and was not addressed by the Applicant.

Impact on Municipal engineering services

According to the Applicant, municipal engineering services are already available on the site and the proposal will have a small to no significant influence on infrastructure services. The Applicant did not submit an Engineering Services Reports with the proposal. The proposal was circulated internally to the relevant Infrastructure Services Departments and all of the Departments, apart from Water and Sanitation, provided positive comments and some recommendations, which is incorporated in the conditions of approval. Any subsequent upgrading of the existing engineering services and capital contributions will be payable by the developer, where applicable.

Outcomes of investigations/applications i.t.o other legislation

N/A

Existing and proposed zoning comparisons and considerations

If the proposed Closed Public Place portion is subdivided and consolidated with Erf 16463, Mossel Bay, the zoning will change to "Single Residential Zone I", in terms of Section 14(1)(a) of the Mossel Bay Municipality: Zoning Scheme By-Law, 2021 it is stated that, when a Closed Public Place is consolidated with the abutting Erf it takes up its zoning.

The proposed consolidated erf will, thus, remain Single Residential Zone I in terms of the Mossel Bay Municipality Zoning Scheme By-Law, 2021 and will have to be developed accordingly.

The desirability of the proposal

It must be noted that there was a disregard to the Municipal By-Laws and National Building Regulations and erf boundary, which cannot be condoned. It should however be noted that the Mossel Bay By-Law on Municipal Land Use Planning, 2021 does make provision for the Land Use Application and the application must be accepted and reviewed by the Municipality. The aforementioned should, however, not be interpreted as a means to disregard the By-Laws and expect approval as a rubber stamp process, due to the fact that the structures have already been constructed or by previous Property Owners. It is furthermore, of great concern that both Erven 16463 and 16464, Mossel Bay belong to the same Property Owners, of which Erf 16464 is vacant, and the encroachment of the swimming pool was still established on the adjacent Public Open Space.

It should, furthermore, be noted that the proposal might set a negative precedent for future unauthorised development and encroachment on to Public Open Spaces. However, it should be noted that Land Use Applications should be evaluated on their own merit as each individual property and application has its own constraints and characteristics, which should be evaluated accordingly. However, care should be taken that the application should not create a precedent for the total disregard of laws and condone unlawful development. It must clearly be noted that the disregard of the National Building Regulations and the Mossel Bay Zoning Scheme By-Law cannot be condoned and therefore it is proposed to impose a Contravention Levy, should this Land Use Application be approved.

The Applicant motivated several points in order to support the proposal. The encroachment portion is too small to have any negative impact, and the proposal will enable the implementation of the Council Decision. Whereas, the closure of Erf 6763, Mossel Bay (public place) is motivated to rectify the existing encroachments.

PART O: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The financial or other value of the rights

N/A

The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal

N/A

The social benefit of the restrictive condition remaining in place, and/or being removed/amended

N/A

Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights

N/A

PART P: SUMMARY OF EVALUATION

Desirability is defined in the Land Use Planning context as the degree of acceptability of a proposed development on the land unit concerned. The Applicant motivated several points in order to support the proposal. The encroachment portion is too small to have any negative impact, and the proposal will enable the implementation of the Council Decision. Whereas, the closure of Erf 6763, Mossel Bay (public place) is motivated to rectify the existing encroachments.

PART Q: DEPARTMENTAL COMMENTS

COMMENTS: MUNICIPAL MANAGER

No further comments.

COMMENTS: DIRECTOR FINANCIAL SERVICES

No further comments.

COMMENTS: DIRECTOR DEVELOPMENT AND PLANNING

No further comments.

COMMENTS: DIRECTOR TECHNICAL SERVICES

No further comments.

COMMENTS: DIRECTOR COMMUNITY SERVICES

No further comments.

COMMENTS: DIRECTOR COMMUNITY SAFETY

No further comments.

COMMENTS: DIRECTOR CORPORATE SERVICES

No further comments.

COMMENTS: LEGAL SERVICES

No further comments.

PART R: RECOMMENDATION

That the following recommendation, applicable to Erven 6763, 2372, Mossel Bay, be made to the Eden Joint Municipal Planning Tribunal:

5. That the application for subdivision of Erf 6763, Mossel Bay in terms of section 15(2)(d) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning, 2021 into:
 - a) Portion A of $\pm 57\text{m}^2$; and
 - b) Remainder Erf 6763 $\pm 2.1257\text{ha}$;

be approved, in terms of Section 61 of the said By-Law.
6. That the application for Closure of a portion of a Public Place in terms of Section 15(2)(l) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning, 2021, namely Portion A (a $\pm 57\text{m}^2$ Portion of Erf 6763, Mossel Bay), **be approved**, in terms of Section 61 of the said By-Law.
7. That the application for Permanent Departure in terms of Section 15(2)(b) of the Mossel Bay Municipality By-Law on Municipal Land Use Planning, 2021 for the relaxation of the Northern side building line from 2m to 0m to for a building line relaxation along boundary b, a, d, c, f, e for the proposed newly created Erf 23727 from 2.0m to 0.0m for an existing deck, **be approved**, in terms of Section 61 of the said By-Law.

8. That the approvals above are subject to the following conditions imposed in terms of Section 67 of the said legislation:
- 4.1. That this approval is valid for a period of 8 months from the date of this letter.
 - 4.2. That a Contravention Levy must be paid to the Municipality in terms of the Municipality's approved Tariff List for the existing structure/s constructed over the building line/s without approved building plans. (Note: The Town Planning Front Desk must be contacted for an invoice and unique reference number for the payment of the Contravention Levy. Contact person at the Town Planning Front Desk: Danielle Truter dtruter@mosselbay.gov.za / Tel: 044 606 5000).
 - 4.3. That the Contravention Levy stated above, must be paid to the Municipality prior to the submission of building plans.
 - 4.4. That an undeveloped portion of Erf 16464, Mossel Bay equal to the extent of the encroachment portion, must remain undeveloped and maintained as part of the Open Space Network by means of registering a Servitude.
 - 4.5. That all costs related to the proposal be for the account of the Applicant/Owners.
 - 4.6. That all unauthorised structures erected over the municipal sewer pipeline, must be demolished or the sewer pipeline must be re-routed at the Applicant's cost, to the satisfaction of the Director: Infrastructure Services.
 - 4.7. That the Property Owner of Erf 11271, Mossel Bay, indemnifies the Municipality against any claims related to damages to private property or sustained by third parties due to the presence or operation of the Municipality's installation and/or equipment on the premises, or the maintenance or repair thereof.
 - 4.8. That the Applicant must provide proof that the Public Places have been closed at the SG Office to the satisfaction of the Director: Planning and Economic Development.
 - 4.9. That the Municipality reserves the right of free access to the properties, without notice, for the purpose of inspection, maintenance, renewal, cleansing, repair and construction of municipal services.
 - 4.10. That the Applicant be responsible for the re-routing of the municipal sewer line to the satisfaction of the Director: Planning & Economic Development.
 - 4.11. That the Municipality be provided, free of charge, with the Surveyor General Diagram upon registration of the newly created property.

Kindly note:

- That the following be exempted in terms of Section 24(1)(d) of the Mossel Bay By-Law on Municipal Land Use Planning, 2021.
 - Consolidation of unregistered Erf 23725 with Erf 16463, Mossel Bay.
 - Subdivision of unregistered Erf 23726, Mossel Bay (Fig. D, e, f c, D - as shown on Plan No. MB/DH/201-2); and.
 - Consolidation of unregistered Erf 23726 with Erf 16463, Mossel Bay.
- That the consolidated property, Erf 23727, Mossel Bay as indicated on the Consolidation Plan, be exempted from a Rezoning Application in terms of Section 14 of the Mossel Bay Municipality Zoning Scheme By-Law, 2021 and that the consolidated property be zoned "Single Residential Zone I".
- That the National Building Regulations be adhered to at all times.
- That this approval does not exempt compliance with any other legislation that may be applicable to the proposed development.
- That the conditions of Deed of Sale be adhered to.

PART S: REASONS FOR RECOMMENDATION

- a) The proposal is regarded as reconcilable with the relevant Spatial Planning Policies, due to the site-specific circumstances and Council Resolution E24-02/2023 where Council accepted the proposal.
- b) The closure of portions of Erf 7377, Mossel Bay, will not restrict access to any surrounding properties or negatively impact of the traffic flow of the area or pedestrian movement.

PART T: ANNEXURES

Annexure A	Locality Plan
Annexure B	Subdivision Plan
Annexure C	Motivation report
Annexure D	Spatial Planning Section Comments
Annexure E	Section 79 Land Use Planning Committee comments
Annexure F	Applicant's response to the comments received
Annexure G	Conveyancer Certificates
Annexure H	Title Deeds
Annexure I	Council Resolution E24-02/2023 and Deed of Sale

PART U: SIGNATURES

Author

Registered planner name: Raimo Fernandez



SACPLAN registration number: A/2864/2019

Date: 8 September 2025

Manager (Town Planning)

Registered planner name: Jacobus Izak Roux



SACPLAN Registration Number: A/05/2007

Date: 8 September 2025

Director: Planning and Integrated Services

Carl Venter



SACPLAN Registration Number: A/1152/1999

Date: 9 September 2025

Decision maker: Eden Joint Municipal Planning Tribunal

APPROVED

APPROVED
CONDITIONALLY

APPROVED IN
PART

REFUSED

Date: _____

